



## **On Taxes And Other Obligatory Payments Into The Budget (Tax Code)**

### *Invalidated Unofficial translation*

Code of the Republic of Kazakhstan dated December 10, 2008 № 99-IV. It became invalid by the Law of the Republic of Kazakhstan dated December 25, 2017 № 121-VI

#### Unofficial translation

A footnote. The Code became invalid on 01.01.2018 in accordance with the Law of the Republic of Kazakhstan dated 25.12.2017 № 121-VI (for the procedure of entry into force, see Article 58).

Footnote. See the Law of the Republic of Kazakhstan dated December 10, 2008 № 100 "On Introduction of the Code of the Republic of Kazakhstan "On Taxes And Other Obligatory Payments Into The Budget" (Tax Code).

Footnote. Throughout the whole text the words "in the state and (or) in the Russian language", "the state and the Russian language", "in the state or in the Russian language" are replaced by the words "in the Kazakh and (or) in the Russian language", "the Kazakh and Russian language", "in the Kazakh or in the Russian language" respectively; the adjective "(share)" is deleted by the Law of the Republic of Kazakhstan dated 16.11.2009 № 200-IV (the order of enforcement see Article 2).

Note of the RCLI (Republican Centre of Legal Information)!

Until January 1, 2013 throughout the text of the Code, except for the Articles 39, 40, 561, 563, 564, 580, paragraphs 8, 9 of Article 562, sub-paragraph 2) of paragraph 5 of Article 570 and sub-paragraph 3) of Article 581, the terms "identification number", "the identification numbers", "on identification number", "of identification number" according to the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV shall respectively be given the same meaning as the terms "registration number", "the registration numbers", "on registration number" "of registration number".

## **1. GENERAL PART**

### **Section 1. General provisions**

#### **Chapter 1. BASIC PROVISIONS**

#### **Article 1. Relations regulated by this Code**

This Code regulates relations on the establishment, introduction and manner of calculation and payment of taxes and other obligatory payments into the budget, as well as relations between the State and the taxpayer (tax agent), connected with the fulfillment of tax obligations.

## **Article 2. Tax legislation of the Republic of Kazakhstan**

1. The tax legislation of the Republic of Kazakhstan is based on the Constitution of the Republic of Kazakhstan and consists of this Code and regulations, introduction of which is provided for by this Code.

2. No one may be obliged to pay taxes or other obligatory payments into the budget that are not provided for by this Code.

3. Taxes or other obligatory payments into the budget are established, introduced, amended and repealed in the manner and on the conditions, established by this Code.

4. In the case of a contradiction between this Code and other legislation of the Republic of Kazakhstan, the provisions of this Code apply in relation to taxation. It is prohibited to include laws which regulate tax affairs into non-tax legislation except where provided for by this Code.

5. If an international treaty, which has been ratified by the Republic of Kazakhstan, establishes provisions other than those established in this Code, the provisions of the treaty shall be applied.

## **Article 3. Operation of the tax legislation of the Republic of Kazakhstan**

1. The tax legislation of the Republic of Kazakhstan operates throughout the whole territory of the Republic and applies to individuals, legal entities and their structural subdivisions.

**Note of the RCLI!**

**Paragraph 2 shall be enforced from 01.07.2011 (see Article 1 of Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV)**

2. Legislative Acts of the Republic of Kazakhstan, making amendments and additions to this Code, except for amendments and additions relating to tax administration, details of establishing tax reporting, as well as improvement of taxpayers' (tax agents') position, may be adopted no later than November 1 of the current year and shall come into force no earlier than January 1 of the year following the year of their adoption.

## **Article 4. Taxation principles in the Republic of Kazakhstan**

1. The tax legislation of the Republic of Kazakhstan is based on taxation principles. These principles are: the principle of the obligatory nature, certainty, and fairness of taxation, the unity of the tax system and the transparency of the tax legislation of the Republic of Kazakhstan.

2. Provisions of the legislation of the Republic of Kazakhstan may not contradict the taxation principles established by this Code.

## **Article 5. The principle of obligatory taxation**

A taxpayer must satisfy his tax obligation, a tax agent -his obligations in relation to calculation, withholding and remittal of taxes in accordance with the tax legislation of the Republic of Kazakhstan in full and within the prescribed period.

## **Article 6. The principle of certainty**

Taxes and other obligatory payments into the budget of the Republic of Kazakhstan must be certain. This means all grounds for and the manner in which a taxpayer's tax liabilities arise, are fulfilled and cease and the obligations of a tax agent with regard to calculation, withholding and remittal of taxes arise, are fulfilled and cease must be established in the tax legislation.

## **Article 7. The principle of fairness of taxation**

1. Taxation in the Republic of Kazakhstan is universal and obligatory.
2. The granting of tax benefits of an individual character is prohibited.

## **Article 8. The principle of unity of the tax system**

The tax system of the Republic of Kazakhstan is a unified system operating throughout the entire Republic of Kazakhstan with respect to all taxpayers (tax agents).

## **Article 9. The principle of transparency of the tax legislation of the Republic of Kazakhstan**

Regulations governing taxation issues are subject to obligatory publication in the official media.

## **Article 10. Tax policy**

The tax policy is a set of measures relating to the establishment of new and the cancellation of current taxes and other obligatory payments into the budget, changes in interest rates, objects of taxation and objects related to taxation, the tax base on taxes and other obligatory payments into the budget in order to provide for the financial needs of the state on the basis of a balance between the economic interests of the state and taxpayers.

## **Article 11. Advisory council on taxation**

1. With the aim of coming up with suggestions of ways to eliminate ambiguities, inaccuracies and contradictions which may occur during the fulfillment of tax

obligations, and also to preclude possible schemes for the evasion of taxes and other obligatory payments into the budget, the Government of the Republic of Kazakhstan has the right to establish an Advisory Council.

2. The composition of the Advisory Council and its regulations are approved by the Government of the Republic of Kazakhstan.

## **Article 12. Definitions used in this Code**

1. Definitions used in this Code for the purposes of taxation:

1) "information processing services" means services for the collection and collation of information, systematization of document files (data) and the provision of the results of the information processing to a user;

2) "special tax regime" means special means of accounting to the budget, established for certain categories of taxpayers and providing for the application of a simplified order of calculation and payment of certain taxes and fees for land use, and reporting on them;

3) "securities" means shares, debt securities, depository receipts, shares in mutual investment funds, Islamic securities;

4) "other obligatory payments" means the obligatory money transfers into the budget in the form of fees, charges, duties, except for customs duties, arising in the amounts and in those cases, prescribed by this Code;

5) "arrears" means sums of taxes and other obligatory payments into the budget, which have been calculated, charged and not paid on time, including advance and (or) current payments on them, except for sums reflected in a notice of the results of a tax audit which is being appealed in the manner established by the relevant legislation of the Republic of Kazakhstan;

6) "debt securities" means government-issued securities, bonds and other securities, recognized as debt securities in accordance with the legislation of the Republic of Kazakhstan;

7) "discount on debt securities" means a disparity between the nominal value and the value of IPO (Initial Public Offering) (without coupons) or purchase cost of the debt securities (without coupons);

8) "coupon on debt securities" (hereinafter "coupon") means a sum paid by the issuer in excess of the nominal value of debt securities in accordance with the conditions of issue;

9) "bonus in debt securities" means a disparity between the IPO value (without coupon) or the cost of the purchase (without coupon) and the nominal value of the debt securities, the conditions of the issuance of which provide for the payment of the coupon;

10) "market rate of currency exchange" means the average exchange rate of tenge to a foreign currency which has been established at the main session of a stock exchange operating in the territory of the Republic of Kazakhstan, and determined in the manner established by the National Bank of the Republic of Kazakhstan together with the authorized state body responsible for regulating activity in the sphere of accounting and financial reporting, and of the exchange rate of tenge to a foreign currency, in which no stock exchange, operating in the territory of the Republic of Kazakhstan, conducts trades, calculated using cross-rates according to the procedure established by the National Bank of the Republic of Kazakhstan together with the authorized state body responsible for regulating activity in the accounting and financial reporting sphere;

10-1) "web-application" means an internet resource of an authorized body that is personalized and protected from unauthorized access and designed to enable receipt by taxpayers of electronic tax services and fulfillment by them of their tax obligations;

11) "grant" means property, presented free of charge for achieving certain goals (tasks):

by states and state governments to the Republic of Kazakhstan, the Government of the Republic of Kazakhstan, individuals, and legal entities;

by international and governmental organizations, foreign and Kazakh non-governmental public organizations and foundations, whose work has a charitable and (or) international nature and does not conflict with the Constitution of the Republic of Kazakhstan, and who are included in the list, established by the Government of the Republic of Kazakhstan, in agreement with findings of state bodies to the Republic of Kazakhstan, the Government of the Republic of Kazakhstan, individuals, and legal entities;

by foreigners and stateless persons to the Republic of Kazakhstan and the Government of the Republic of Kazakhstan;

#### **Note of the RCLI!**

**The sub-paragraph shall be enforced from January 1, 2009 and operates until January 1, 2016 (see Article 2 of Law of the Republic of Kazakhstan dated 19.03.2010 No. 258-IV).**

For the purposes of this Code, a property, received free of charge by Kazakh non-governmental public foundations under the auspices of an intergovernmental agreement, to which the Republic of Kazakhstan is a signatory, which aims to support (offer assistance to) low-income citizens in the Republic of Kazakhstan, for achievement of the goals (tasks), determined by such agreement, shall be recognized as a grant.

12) "humanitarian aid" means property that is provided free of charge to the Republic of Kazakhstan in the form of food, consumer goods, machinery, equipment,

tools, medical equipment and medicines, other property sent from foreign countries and by international organizations to improve the living conditions and daily life of the population, and likewise to prevent and eliminate emergencies of a military, ecological, natural and manmade character, and which is distributed by the Government of the Republic of Kazakhstan through the authorized organizations.

13) "sponsored help" means property, provided free of charge with the aim of disseminating information about the person, who provided the property:

to individuals in the form of financial (except for social) support for participation in competitions, contests, exhibits, shows and for the development of creative, scientific, technical, and inventive activities and to raise the level of education and of sporting achievement;

to non-commercial organizations for realization of their statutory goals;

14) "dividends" means the income payable on shares, and including shares, which are the basic assets of depositary receipts; the income, payable on the shares of mutual investment fund, except for the income on shares at their redemption by a managing company of the fund; a part of the net income, distributed by a legal entity among its founders and shareholders; the income from distribution of property during liquidation of a legal entity or upon reduction of the authorized capital via proportional lowering of the size of contributions of the founders or participants or by full or partial extinguishing of shares of founders or participants, and also during withdrawal of its share in a legal entity by a founder or a participant, except for property, contributed into the authorized capital by the founder or shareholder; the income payable on Islamic participation certificates; the income, received by a shareholder, participant, founder or by a connected party from a legal entity in the form of:

a positive disparity between the market price of the goods, works, services and the price for which these goods, works and services were sold to a shareholder, participant, founder or to a connected party;

a negative disparity between the market price of the goods, works, services and price, for which these goods, works and services were purchased from a shareholder, participant, founder or from a connected party;

the cost of the expenditures and obligations, not connected with the business activity of a legal entity, that a shareholder, participant, founder or a connected party has to a third party, which is paid by the legal entity without its reimbursement by the shareholder, participant, founder or their connected party to the legal entity;

any property or material benefit, provided by a legal entity to its shareholder, participant, founder or a connected party, except for the income, specified in Articles 163 - 165 of this Code and the income from selling of goods and services.

A positive or negative disparity, mentioned in this sub-paragraph, is determined during the adjustment of taxation objects. The adjustment of taxation objects shall be

performed in accordance with the provisions of the legislation of the Republic of Kazakhstan on transfer pricing. For the purposes of this sub-paragraph, connected parties are defined in compliance with the paragraph 1-1 of this Article;

15) "design services" means services for designing forms of art, the external appearance of products, building facades, interior spaces; artistic construction;

16) "false enterprise" means a private entity, the establishment and (or) management of which is recognized by an issued verdict or a decision of a court as a false enterprise in accordance with the legislation of the Republic of Kazakhstan;

17) "personal property of an individual" means property or a share in common property in material form belonging to an individual, which is not intended to be used for business purposes;

18) "subsoil users" means the individuals or legal entities, which have the right to conduct mining operations, including oil operations, in the territory of the Republic of Kazakhstan in accordance with the Laws of the Republic of Kazakhstan.

19) "structural subdivision of a legal entity" means a branch or representative office ;

19-1) "investment gold" means gold, in respect of which there is a certificate or other document, issued by a certifying body or a testing laboratory, accredited in the manner established by the legislation of the Republic of Kazakhstan, confirming conformity of the gold with national or international quality standards, in accordance with the following requirements:

For gold coins:

Gold coins do not possess numismatic value if;

the purity of gold coins shall be equal to or exceed 900 parts per 1000 fineness (which is equal to 900 standards, 900 thousandths, 90.0 % or 21.6 carats);

However gold coins possess numismatic value if they comply with one of the following conditions:

minted before 1800;

minted using technology permitting the attainment of a mirror surface of "proof" quality;

no more than 1000 specimens were made;

its market price exceeds the cost of the gold, contained in the coin, by more than 80%;

The market price of a gold coin is determined by multiplying the morning fixing (price quotation) of gold, which is established by the London Bullion Market Association on the date of realization of the gold coin by the market exchange rate, established on the indicated date;

for other gold:

this gold is made in the form of a bar and (or) plate;

the purity of such gold is equal or exceeds 995 parts per 1000 ligature mass (which equals 995 standard, 995 thousands, 99.5 % or 23.88 carats);

20) "engineering services" means engineering and consulting services, works of research, design, calculation and analytical nature, preparation of technical and economic studies of projects, elaboration of recommendations in the sphere of organization of production and management, output realization;

20-1) "Islamic securities" means Islamic lease certificates and Islamic participation certificates;

21) "contract activity" means activity of a subsoil user, conducted in accordance with the regulations of the contract for subsoil use;

22) "non-contract activity" means any other activity of a subsoil user, which is not directly provided for by the contract for subsoil use;

23) "consulting services" means services for providing clarifications, recommendations, advice and other forms of consultations, including determination and (or) assessment of problems and (or) capabilities of a person, in order to resolve administrative, economic, financial and investment issues, including issues of strategic planning, organization and implementation of commercial activity and staff management;

24) "charitable help" means property, provided free of charge:

to individuals with the goal of providing social support;

to non-commercial organizations with the goal of supporting their authorized activities;

to organizations, working in the social sphere with the goal of assisting them to realize these of activity, specified in paragraph 2 of Article 135 of this Code;

to organizations, working in the social sphere, which meet the requirements, specified in paragraph 3 of Article 135 of this Code;

25) "stake" means a shared participation of an individual and (or) a legal entity in joint activity, in the authorized capital of a legal entity, except for joint-stock companies and mutual investment funds;

26) "employee" means an individual standing in an employment relationship with an employer and who works directly in accordance with a labor agreement (contract); a state employee; a member of the Board of Directors of a joint-stock company, except for state employees; a foreigner or a stateless person, employed under a nonresident contract for work, and whose activity does not constitute a permanent establishment within the meaning of paragraph 7 of Article 191 of this Code, (relating to a resident or nonresident, working in the Republic of Kazakhstan through a permanent establishment);

27) "marketing services" means services, connected with research, analysis, planning and forecasting in the sphere of manufacturing and circulation of goods,



works, services in order to define measures for the creation of the best conditions for manufacturing and circulation of goods, works, services, including the characteristics of the goods, works, services and development of the pricing and advertisement strategies;

28) *excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012);*

29) "realization" means the shipment and (or) transfer of goods or other property, carrying out of works, provision of services with the aim of selling them, exchange, free transfer, and also the transfer of pledged goods to the pledgee;

30) "royalty" means a payment for:

the right of subsurface use in production and processing of manmade formations;

the use or the right to use copyrights, software, patents, software, drawings and models, trademark and other similars of rights; the use or the right to use industrial equipment, including ships and aircrafts, rented under the contract of a bareboat charter or a demise charter, and commercial, or scientific research equipment; the use of know-how; the use or the right to use movies, video films, audio recordings, or other recording devices;

31) "tax agent" means an individual entrepreneur, a private notary, a private officer of the court, a lawyer, a legal entity, including a nonresident legal entity who is obliged by this Code to calculate, withhold and remit taxes, withheld at the source of payment;

32) "tax debt" means the sum of arrears, as well as the unpaid penalties and fines. A tax debt shall not include fines, reflected in the notice of the results of tax audit, and also the amount of penalties, which are reflected in any resolution imposing an administrative penalty which is being appealed in the manner specified by the legislation of the Republic of Kazakhstan;

33) "tax regime" means a set of regulations of the tax legislation of the Republic of Kazakhstan, used by a taxpayer for calculation of all tax obligations relating to tax payment and other obligatory payments into the budget, provided for by this Code;

34) "taxes" means the obligatory money payments into the budget, unilaterally established by legislation, except for cases, provided for by this Code, which have a certain value and which have an irrecoverable and non-reciprocal nature;

35) "taxpayer" means a person, who pays taxes and other mandatory payments into the budget;

36) "personal account of a taxpayer (tax agent)" means a document, which may be in an electronic form, for recording calculated, charged (reduced), transferred and paid (taking into account the credited and returned) amounts of taxes and other obligatory payments into the budget, obligatory pension contributions, social allowances, and amounts of fines and penalties;

37) "electronic document of a taxpayer" means an electronic document given in a specified electronic format, certified by an electronic digital signature of a taxpayer after its receipt and confirmation of its authenticity;

38) "electronic digital signature of a taxpayer" means a range of digital electronic symbols, created by means of an electronic digital signature and confirming the electronic document's authenticity, that it is owned by a taxpayer and the invariability of its content;

39) "remunerations" means all payments:

connected with credit (loan, micro-credit), except for the amount of credit (a loan, a micro-credit) received (given), commissions for transfer of money by banks and other payments to a person, who does not act as lender to the borrower and is not a connected party;

**Note of the RCL!**

**Paragraph shall be enforced from 01.07.2011 and shall operate up to 01.01.2018.**

connected with a credit (a loan), the right to claim which has been ceded by the bank to a subsidiary which is purchasing doubtful and non-performing assets of the parent bank, except for the amount of credit (loan, a micro-credit) received (given), commissions for transfer of money by banks and other payments to a person, who does not act as lender to the borrower and is not a connected party;

**Note of the RCL!**

**Paragraph shall be enforced from 01.07.2011 and shall operate up to 01.01.2018.**

connected with credit (a loan), the right to claim which has been ceded by the bank to an organization, specializing in the improvement of the quality of loan portfolios of the second-tier banks, and one hundred percent of voting shares which belongs to the National Bank of the Republic of Kazakhstan, except for the received (given) amount of a credit (a loan), commissions for money transfer by banks and other payments to a person, who is not acting as lender to the borrower and is not a connected party;

related to the transfer of property to a financial lease, except for the price, for which such property was received (given) and payments to a person who is not acting as lessor to the lessee and is not a connected party;

on investments (deposits), except for the investment amount (a deposit), and payments to a person, who is not acting as investor to the depositor and is not a connected party;

related to an accumulative insurance contract, except for the amount of the insurance sum and payments to a person who is not acting as insurer to the insured and is not a connected party;

on debt securities in the form of discount or coupon (taking into account the discount or bonus from the initial public offering price and (or) the cost of acquisition),

and payments to a person, who is a holder of his debt securities, or a connected party to the person;

under a bill of exchange, except for the amount specified in the bill, payments to a person, who is not acting as drawer of the bill of exchange and is not a connected party of the bill drawer;

on repo agreements - in the form of the difference between the closing and the opening price of repo on Islamic lease certificates.

For the purposes of this sub-paragraph, remunerations paid under a bank account agreement are also deemed to be remunerations;

40) "derivative financial instrument" means an agreement, the value of which shall depend on the value ??(including fluctuations in value) of the underlying asset of the agreement, and providing for future calculations of the value. Derivative instruments shall include options, futures, forwards, swaps and other derivative financial instruments, including those which represent a combination of these derivative financial instruments.

Underlying assets of derivative financial instruments may be goods, standardized consignments of goods, securities, currencies, indexes, interest rates and other assets, possessing a market value, a future event or a circumstance, or other derivative financial instruments;

41) "person" means a physical entity (an "individual") and legal entity; an individual is a citizen of the Republic of Kazakhstan, a foreigner or a stateless person; a legal entity is an organization, created in accordance with the legislation of the Republic of Kazakhstan or a foreign state (a nonresident legal entity). For the purposes of this Code, an organization or other corporate institution, created in compliance with the legislation of a foreign state, shall be considered as an independent legal entity regardless of whether it has the status of a legal entity of the foreign country, where it was incorporated;

41-1) "authorized legal entity" means a legal entity, which is appointed by the Government of the Republic of Kazakhstan, to realize a taxpayer's (a tax agent's) property within the limits determined by order;

42) "authorized government bodies" means the state bodies of the Republic of Kazakhstan, except for the tax and local executive bodies, which are authorized by the Government of the Republic of Kazakhstan to perform calculation and (or) collection of other obligatory payments into the budget, and also, in compliance with this Code, to cooperate with tax bodies within the scope of their competence, as specified by the Laws of the Republic of Kazakhstan, the acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan;

43) "authorized body" means a state body, involved in the sphere of ensuring payment of taxes and other obligatory payments into the budget;

44) "winnings" means any of income in kind or in the form of money, received by a taxpayer from contests, competitions (Olympic games), festivals, lotteries, winnings, including winnings on deposits and debt securities, as well as income in the form of property profit or won through gambling and (or) betting;

45) "electronic taxpayer" means a taxpayer who interacts with tax bodies in electronic form on the basis of an agreement concluded with the tax bodies on the use and recognition of the electronic signature during the exchange of electronic documents in the manner provided for by this Code,;

46) "operator" means a legal entity, created or appointed in accordance with the legislation of the Republic of Kazakhstan by subsurface users, conducting subsoil use operations as a part of a general partnership (consortium) within the framework of a PSA (Production Sharing Agreement (contract));

47) "import of goods" means the import of goods into the customs territory of the Customs Union, performed in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan, as well as the import of goods into the territory of the Republic of Kazakhstan from the territory of another member-state of the Customs Union.

1-1. For the purposes of this Code, connected parties are those individuals and (or) legal entities having a relationship which has one or several of the following features:

1) one person is recognized as an affiliated person of the other person in accordance with the legislation of the Republic of Kazakhstan;

2) one person is a major participant of the other person;

3) the persons are tied by a contract, under which one of them has the right to determine the decisions made by the other;

4) one legal entity is under the control of a major participant or of an official of another legal entity;

5) a major shareholder, a major participant or an official of one legal entity is a major shareholder, a major participant or an official of the other legal entity;

6) both legal entities are under the control of a third party;

7) a person together with his affiliated persons possesses, controls or disposes of 10 or more percent of participation shares of the legal entity or legal entities specified in sub-paragraphs 2) - 6) of this paragraph;

8) an individual is an official of a legal entity specified in sub-paragraphs 2) - 7) of this paragraph, except for an independent director of a joint-stock company;

9) an individual is a close relative ??(a brother, a sister, a parent, a son or a daughter of a husband (or wife)) of a major participant or an official of a legal entity.

For the purposes of this paragraph, a major participant shall be understood to mean a participant, whose share in the property of a legal entity, except for joint-stock companies, equals 10 percent or more.

Control of a legal entity means an ability to determine decisions made by a legal entity.

Persons whose only connection was participation after January 1, 2009 of their national managing holding company in the share capital of a bank in the capacity of a major shareholder and (or) the participation of officials of the national managing holding company in the governing body of such bank are not connected parties;

2. The meaning of other special concepts and terms of the tax legislation of the Republic of Kazakhstan is determined in the relevant Articles of this Code.

3. When used in this Code, concepts used by the civil and other branches of the legislation of the Republic of Kazakhstan, shall have the meanings given to them by those branches unless otherwise provided for by this Code.

**Footnote. Article 12 as amended by the Laws of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 19.03.2010 No. 258-IV (shall be enforced from 01.01.2009 and operates up to 01.01.2016); dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010); dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2); dated 26.11.2010 No. 356-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).**

## **Chapter 2. RIGHTS AND RESPONSIBILITIES OF A TAX PAYER AND A TAX AGENT. REPRESENTATION IN THE TAX RELATIONS**

### **Article 13. The rights of a taxpayer and a tax agent. The government's role in taxation**

1. A taxpayer shall have the right:

1) to receive information from the tax services bodies on current taxes and other obligatory payments into the budget, on amendments to the tax legislation of the Republic of Kazakhstan and on clarifications on the manner of completion of tax forms ;

2) to represent his interests in those relations, regulated by the tax legislation of the Republic of Kazakhstan, personally or through his representative or with participation of a tax consultant;

3) to receive the results of a tax audit in those cases established by this Code;

4) to receive free of charge from the tax bodies the standards of rendering the public services approved in the manner established by the legislation the Republic of Kazakhstan, copies of the established forms of tax declarations and (or) the software, necessary for submission of tax reports and declarations in an electronic format;

- 5) on application to a tax body to receive a copy of a tax report which was earlier submitted by him/her;
- 6) to provide clarifications to tax service authorities on calculation and payment of taxes and other mandatory payments into the budget based on the results of a tax audit;
- 7) to receive an extract from his personal account showing the status of fulfillment of his tax obligations, and likewise his obligations to calculate, withhold and remit obligatory pension contributions, calculation and payment of social security contributions no later than two working days from the moment of receipt by the tax bodies of a tax application;
- 8) On submission of a tax application to receive the following certificates, in the manner and within the timeframe, established by this Code:
- on absence of tax arrears, arrears of obligatory pension contributions and social security contributions;
  - on absence (presence) of tax arrears, arrears of obligatory pension contributions and social security contributions;
  - on the amounts of income, received by a nonresident from sources in the Republic of Kazakhstan, and on withheld (paid) taxes;
- 9) to receive information on details necessary to complete a payment document in order to fulfill tax obligations on payment of taxes and other obligatory payments into the budget, as well as information on the manner of payment of taxes and other obligatory payments into the budget within one working day after making a request to the tax authority for this information;
- 10) to appeal in accordance with the manner specified by this Code and other legislative acts of the Republic of Kazakhstan a notification of the results of a tax audit and (or) the decision of a higher body of the tax service on consideration of such an appeal, as well as actions (omissions) of officials of the tax service;
- 11) to demand the observance of tax confidentiality;
- 12) to receive free of charge public services, provided by tax bodies in accordance with this Code;
- 13) to fix in writing questions raised by an official of the tax service during a tax audit, and to agree with him/her a document reflecting these issues;
- 14) not to provide information and documents which are not related to the objects of taxation and (or) objects, related to taxation, except for information and documents, provision of which is directly provided for by the tax legislation of the Republic of Kazakhstan, the legislation of the Republic of Kazakhstan on transfer pricing, and the legislation of the Republic of Kazakhstan on state regulation of production and turnover of certain excisable goods.

2. A taxpayer has the right to participate electronically in the relationships, regulated by the tax legislation of the Republic of Kazakhstan in the manner specified by this Code.

3. A taxpayer shall have other rights, provided for by the legislation of the Republic of Kazakhstan.

**Footnote. Article 13 as amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 263-IV (shall be enforced from 01.01.2010).**

#### **Article 14. The responsibilities of a taxpayer**

1. A taxpayer must:

- 1) fulfill a tax obligation fully and promptly in accordance with this Code;
- 2) fulfill legitimate requests of officials of a tax service on the elimination of revealed infringements of the tax legislation of the Republic of Kazakhstan, and likewise not impede the lawful activity of the execution of their duties;
- 3) on being presented with an order, allow the officials of the tax service to inspect a property, which is a taxation object and (or) an object, related to taxation;
- 4) provide information and documents, specified by the legislation of the Republic of Kazakhstan on transfer pricing;
- 5) use cash register machines and observe the manner of their application, defined by this Code;
- 6) submit a tax application to the tax authority confirming that documentary verification has been carried out in the following situations: in connection with the termination of working activity of an individual entrepreneur (except in those cases prescribed by Article 43 of this Code), practices of a private notary, a private officer of the court, a lawyer, a permanent establishment, nonresident legal entity, reorganization by means of subdivision and (or) liquidation of a legal entity;

**Note of the RCLI!**

**Sub-paragraph 7) shall be enforced from 01.07.2011.**

7) notify tax bodies on forthcoming receipt of excisable goods (excluding automobiles), imported from the Customs Union member states in the manner, established by the Government of the Republic of Kazakhstan.

2. A taxpayer shall fulfill other responsibilities, prescribed by this Code.

**Footnote. Article 14 as amended by the Laws of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010); dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2011); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); dated 09.01.2012 No. 535-IV (the order of enforcement see Article 2).**

#### **Article 15. Rights and responsibilities of a tax agent**

1. A tax agent has the same rights and responsibilities as a taxpayer, unless otherwise provided by this Code;
2. A tax agent must also:
  - 1) calculate taxes, withheld at the source of payment properly and in a timely manner in accordance with the Special part of this Code;
  - 2) withhold the appropriate taxes from a taxpayer and transfer them into the budget in the manner and the period provided for by this Code;
  - 3) maintain a record of the income, paid to taxpayers, as well as the amounts of taxes withheld and transferred to the budget, including a personal record for each taxpayer;
  - 4) provide the tax body in the place of registration with reporting materials in the manner provided for by this Code;
3. A tax agent shall fulfill other responsibilities prescribed by this Code.

#### **Article 16. Ensuring and protecting the rights of a taxpayer (a tax agent)**

1. A taxpayer's (a tax agent's) rights and legal interests are guaranteed.
2. The protection of the rights and legitimate interests of a taxpayer (a tax agent) shall be fulfilled in the manner, specified by this Code and other legislative acts of the Republic of Kazakhstan.

#### **Article 17. Representation in tax relations regulated by this Code**

1. A taxpayer (a tax agent) shall have the right to participate in the relationships, regulated by the tax legislation of the Republic of Kazakhstan through a lawful or authorized representative, unless otherwise provided for by this paragraph;

This paragraph shall not be applied where a taxpayer, who has been relieved of the requirement to pay value-added tax in accordance with paragraph 4 of Article 571 of this Code, has presented a tax report for value-added tax in a period during which that taxpayer was not a value-added tax payer.

2. A person who has been authorized to represent a taxpayer (a tax agent) in accordance with the Laws of the Republic of Kazakhstan shall be recognized as their legal representative.

3. An individual or a legal entity who has been authorized by a taxpayer (a tax agent) to represent his/her interests in relations regulated by the tax legislation of the Republic of Kazakhstan, in dealings with tax authorities and other taxation bodies, shall be recognized as their authorized representative.

An authorized representative of a taxpayer (a tax agent) which is an individual, including an individual entrepreneur, shall act on the basis of a notarized power of attorney or power of attorney, equivalent to a notarized power of attorney, given by



this taxpayer (tax agent) in accordance with the civil legislation of the Republic of Kazakhstan, and which indicates a specific list of powers of the representative.

An authorized representative of a taxpayer (tax agent) which is a legal entity or a legal entity of a structural subdivision, shall operate on the basis of the foundation documents of this taxpayer (tax agent), and (or) its power of attorney, given in accordance with the civil legislation of the Republic of Kazakhstan, and which indicates a specific list of powers of the representative.

4. Personal participation of a taxpayer (a tax agent) in the relations, regulated by the tax legislation of the Republic of Kazakhstan, shall not deprive him/her of the right of having a representative, and in the same way the participation of a legal representative shall not deprive a taxpayer (a tax agent) of the right of personal participation in the mentioned relations.

5. An action (omission) of a taxpayer's (a tax agent's) representative, committed in connection with participation of that taxpayer (tax agent) in the relationships regulated by the tax legislation of the Republic of Kazakhstan, shall be recognized as actions (omissions) of the taxpayer (tax agent) within the authority given to the mentioned representative on the basis of the documents, specified in paragraph 3 of this Article;

**Footnote. Article 17 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2).**

#### **Article 17-1. Participation in tax relations via an operator when conducting mining operations on the basis of a production sharing agreement (contract)**

1. Subsoil users, conducting mining operations as a part of a general partnership (consortium) under a production sharing agreement (contract), shall have the right to participate in relations, regulated by the tax legislation of the Republic of Kazakhstan, through an operator.

2. The authority of an operator in relation to the relationships regulated by the tax legislation of the Republic of Kazakhstan, shall be determined in accordance with the production sharing agreement (contract) insofar as it does not contradict this Code.

3. When fulfilling tax obligations in accordance with sub-paragraph 2) of paragraph 3 of Article 308-1 of this Code, an operator shall have all rights and responsibilities, prescribed by this Code for taxpayers (tax agents), and the requirements of tax administration, prescribed for tax payers (tax agents) by this Code, shall also be applied to the operator.

4. The actions (omissions) of an operator, performed on behalf of and (or) at the instruction of subsoil users, in connection with the participation of these subsoil users

in relationships regulated by the tax legislation of the Republic of Kazakhstan, shall be recognized as actions (omissions) of such subsurface users and of the operator, acting on behalf of and at the instruction of these subsoil users.

**Footnote.** The Chapter 2 is supplemented by Article 17-1 in accordance with the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2).

### **Chapter 3. TAX SERVICE BODIES. CUSTOMS BODIES. INTERACTION OF THE TAX SERVICE BODIES WITH OTHER STATE BODIES.**

#### **Article 18. The objectives and structure of the tax service bodies**

1. The objectives of tax service bodies are:

- 1) Ensuring the fullness and timeliness of transfers of taxes and other obligatory payments into the budget;
- 2) Ensuring the fullness and timeliness of calculation, withholding and transfer of obligatory pension contributions to pension funds (hereinafter - obligatory pension contributions), calculations and payments of social contributions to the State Social Insurance Fund (hereinafter - social contributions);
- 3) participation in implementation of the tax policy of the Republic of Kazakhstan;
- 4) Ensuring, within the limits of its competence, the economic security of the Republic of Kazakhstan;
- 5) Ensuring the observance of the tax laws of the Republic of Kazakhstan.

2. The tax service bodies consist of an authorized body and tax bodies which have codes established by the Government of the Republic of Kazakhstan.

3. The tax service bodies include territorial subdivisions of the authorized body for each region, for the cities of Almaty and Astana, for districts, cities, city districts, and inter-regional territorial subdivisions of the authorized body. If special economic zones are created, tax bodies may be formed within these zones.

4. The tax service bodies report directly to the vertically corresponding higher body of the tax service and are not related to the local executive bodies.

5. The authorized body manages the tax bodies.

6. Tax service bodies have a symbol. The description of the symbol of the tax bodies and the procedure for its use shall be approved by the authorized body.

**Footnote.** Article 18 as amended by the Laws of Republic of Kazakhstan dated 06.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

#### **Article 19. Rights of the tax service bodies**

1. Tax service bodies have the right:

1) to develop and approve regulations, provided for by this Code, within the limits of their competence;

2) to perform tax audits;

3) to perform international cooperation on taxation issues;

4) to require a taxpayer (a tax agent, an operator) to grant the right to access the data of software, designed for automatic accounting and tax reporting, and (or) an information system, containing data on primary accounting documents, ledgers, information on objects of taxation, and (or) objects, related to taxation, where such software and (or) information system is used by a taxpayer (tax agent, operator), except for the right to access the data of the software and (or) the information system of banks and other organizations, performing certain kinds of banking operations, containing the data of bank accounts and their clients, which form bank secrets in accordance with the legislation of the Republic of Kazakhstan;

5) to require a taxpayer (a tax agent, an operator) to present documents, confirming the accuracy of calculation and timeliness of payment (withholding, transferring) of taxes and other obligatory payments into the budget, the fullness and timeliness of calculation, withholding and transfer of obligatory pension contributions, and the calculation and payment of social contributions, written clarifications relating to taxation forms completed by a taxpayer (a tax agent, an operator), as well as the financial reporting of the taxpayer (tax agent), including the consolidated financial reports of a resident (a tax agent), including the financial reports of his affiliated organizations outside the Republic of Kazakhstan, with an audit report in cases where this person is obliged to perform an audit in compliance with the legislative acts of the Republic of Kazakhstan;

6) during a tax audit being carried out in the manner specified by the Code of the Republic of Kazakhstan on administrative offences, to confiscate from a taxpayer (a tax agent, an operator) documents, evidencing the committed administrative offence;

7) on receipt of an order to do so to examine property, which is a taxation object and (or) an object, related to taxation regardless of its location, and to conduct an inventory of the property of a taxpayer (a tax agent, an operator) (except for residential premises);.

8) to receive the data prescribed in sub-paragraphs 1) and 4) of Article 581 of this Code from banks and organizations carrying out certain kinds of banking operations;

9) to receive from banks and organizations, carrying out certain kinds of banking operations, information on the existence and numbers of bank accounts, on the balances and cash flow in these accounts in accordance with the requirements for the disclosure of information constituting commercial, banking and other secrets in respect of persons, mentioned in sub-paragraph 12) of Article 581 of this Code as are established by the laws of the Republic of Kazakhstan;

10) to use indirect methods to determine taxation objects and (or) objects, related to taxation, in the manner provided for by this Code;

11) to engage specialists to conduct tax audits;

12) to submit lawsuits in the courts in accordance with the laws of the Republic of Kazakhstan, including in respect of liquidation of a legal entity on the grounds specified in sub-paragraphs 1) and 2) of paragraph 2 of Article 49 of the Civil Code of the Republic of Kazakhstan.

2. Tax service bodies have the right to implement the tasks, assigned by the legislative acts of the Republic of Kazakhstan, by electronic means in the manner provided for by this Code.

3. Tax service bodies have other rights, prescribed by the legislation of the Republic of Kazakhstan.

**Footnote. Article 19 as amended by the Laws of the Republic of Kazakhstan dated 06.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2); dated 25.03.2011 No. 421-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Article 20. Responsibilities of the tax service bodies**

1. Tax service bodies are obliged to:

1) observe the rights of the taxpayer (a tax agent);

2) protect the interests of the state;

3) supervise the fulfillment by a taxpayer (operator) of his tax obligation, and of a tax agent's (operator's) obligation to calculate, withhold and transfer taxes in the manner, provided for by this Code, as well as to monitor the fullness of calculation and timeliness of payments of social contributions, and the timeliness of calculation, withholding and remittance of obligatory pension contributions;

4) keep records of taxpayers, taxation objects and (or) objects, related to taxation, of calculated, charged and paid taxes and other obligatory payments into the budget, of calculated, withheld and transferred mandatory pension contributions, and of calculated and paid social contributions;

5) within the limits of its competence, clarify and give comments on the inception, fulfillment and cessation of tax liabilities;

6) provide a taxpayer (a tax agent) with information on current taxes and other obligatory payments into the budget, on changes to the tax legislation of the Republic of Kazakhstan, to explain the procedure for filling in tax forms;

7) provide to a taxpayer (a tax agent) free of charge the standards of rendering the public services approved in the manner established by the legislation the Republic of

Kazakhstan, copies of the established forms of tax declarations and (or) the software, necessary for submission of tax reports and declarations in an electronic format;

8) conduct tax audits in accordance with instructions;

9) within the limits of its competence, to perform set-off and (or) repayment of overpaid taxes, other obligatory payments into the budget and fines paid into the budget, excess value-added tax paid and repayment of penalties, in the manner and in the timeframe established by this Code;

10) observe tax secrecy in accordance with the provisions of this Code;

11) deliver to a taxpayer (a tax agent, an operator) a notification of fulfillment of his tax liabilities and (or) a copy of the notification in cases, established by this Code, of his obligation to withhold and remit obligatory pension contributions or obligatory social security contributions within the timeframe and in the cases prescribed by this Code;

12) upon a tax application of a taxpayer (a tax agent, an operator) to present the followings of certificates in the time period and the manner, established by this Code:

on absence of tax arrears, arrears of obligatory pension contributions and social security contributions;

on absence (presence) of tax arrears, arrears of obligatory pension contributions and social security contributions;

on the amounts of income, received by a nonresident from sources in the Republic of Kazakhstan, and on withheld (paid) taxes;

13) receive tax reports and tax declarations in the manner established by this Code;

14) require a taxpayer (a tax agent, an operator) to eliminate revealed infringements of the tax legislation of the Republic of Kazakhstan and to supervise the carrying out of these requirements within the limits of their jurisdiction;

15) no later than two working days from the moment of receipt by the tax bodies of a tax application from a taxpayer (tax agent) issue an extract from his personal record showing the status of fulfillment of his tax obligations, and likewise his obligations to calculate, withhold and remit obligatory pension contributions, calculation and payment of social security contributions;

16) within the limits of their competence and within one working day from the date of appeal to the tax body for specified information, to provide a taxpayer (a tax agent) with information on the details required for filling in the payment document on payment of taxes and other obligatory payments to the budget, on fines and penalties, payable into the budget, as well as information on the procedure for payment of taxes and other obligatory payments to the budget, and of penalties and fines, payable into the budget, and on social contributions and the remittance of obligatory pension contributions;

17) keep documents or copies of documents, evidencing payment of taxes and other obligatory payments to the budget for a period of five years;

18) grant an authorized state body charged with responsibility for financial monitoring access to the information system of the tax service, in accordance with the legislation of the Republic of Kazakhstan;

19) grant an electronic taxpayer access to view his/her personal account;

20) at the request of a taxpayer and in the manner prescribed by this Code, verify and correct errors in his personal record of calculations of tax liabilities, of obligatory pension contributions, and of social security contributions, and on the request of a tax agent to verify and correct errors in the record of fulfillment of the obligation to calculate and remit taxes;

21) provide public services in accordance with the standards and regulations on the provision of public services, prescribed by the legislation of the Republic of Kazakhstan;

22) publish in the media, in the manner and in the cases prescribed by this Code, lists of taxpayers (tax agents) who have tax arrears, as well as dormant legal entities and of taxpayers, recognized as false enterprises on the basis of an enforced sentence or resolution of a court;

23) monitor compliance with the manner of accounting, storage, valuation, and further use and realization of property, converted into state property, and monitor the fullness and timeliness of its transfer to an authorized state body in accordance with the legislation of the Republic of Kazakhstan, and fullness and timeliness of money transfer to the budget in case of realization of the property;

24) monitor the activity of the authorized state bodies and local executive bodies with regards to the accuracy of calculation, fullness of collection and timeliness of transfer of taxes and other obligatory payments into the budget;

25) use methods aimed at ensuring the fulfillment of tax liabilities and to recover tax arrears from a taxpayer (a tax agent, an operator) in a compulsory manner in accordance with this Code;

26) consider complaints made by a taxpayer (a tax agent, an operator) on being notified of the results of tax audit and (or) on receipt of the decision of a higher body of the tax services, issued on reviewing a complaint made in relation to a notification, as well in respect of the actions (omissions) of officials of tax bodies in the manner and time frame, established by this Code;

27) to enhance administrative responsibility in the manner established by the Code of the Republic of Kazakhstan on administrative offences;

2. If during a tax audit facts are revealed evidencing intentional evasion of taxes and other obligatory payments into the budget, or of evidence of intentional, false bankruptcy, indicating a crime, the tax service bodies shall submit to the appropriate

law enforcement bodies materials, relating to their investigative jurisdiction for the purposes of decision-making in accordance with the Laws of the Republic of Kazakhstan.

3. Tax service bodies also fulfill other responsibilities prescribed by the tax legislation of the Republic of Kazakhstan.

**Footnote. Article 20 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 02.04.2010 No. 263-IV (shall be enforced from 10.10.2010); dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2).**

#### **Article 21. Conflict of interests**

An official of the tax service bodies is prohibited from performing his/her duties in respect of a taxpayer (a tax agent), who is a close relative (parents, children, adoptive parents, adopted children, full or half brothers and sisters, grandparents, grandchildren), husband (wife) or relation ??(brothers, sisters, parents and children of spouses) of the official, and if there is a direct or indirect financial interest between the two parties.

#### **Article 22. Powers of customs bodies to collect taxes**

Customs bodies perform the collection of taxes, payable in connection with the transit of goods through the customs border of the Customs Union in accordance with this Code, the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan.

**Footnote. Article 22 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2).**

#### **Article 23. Powers of local executive bodies**

1. Akims of settlements, auls (villages), aul (rural) districts (hereinafter - the Akims) organize the collection of taxes on property, on means of transport, and land tax which are paid by a taxpayer (individual).

2. Collection of the taxes, mentioned in paragraph 1 of this Article, shall be performed on the basis of receipts that are documents of strict reporting. The form of the receipts shall be specified by the Government of the Republic of Kazakhstan.

3. During the tax collection, mentioned in paragraph 1 of this Article, the Akims shall:

1) deliver a notification of the sum of the tax to a taxpayer (individual) no later than five working days from the moment of receipt of this notification from the tax bodies;

2) on payment by a taxpayer (individual) in cash, issue a receipt, confirming the fact of a tax payment;

3) transfer tax amounts to a bank or an organization, performing certain banking operations, on a daily basis no later than the next operational day after the money is received for its further transfer into the budget. If the daily amount of received money is less than the tenfold monthly calculation index, established by the Law on the Republican budget and operating from January 1 of the relevant financial year, and if there is no bank or organization, performing certain banking operations in the closest settlement, the money transfer shall be performed every three operating days;

4) ensure the accuracy of completion and safety of the receipts;

5) provide the tax body with reports on the use of receipts and transfer of tax amounts to a bank or an organization, performing certain banking operations, in the manner and the timeframe, established by the Government of the Republic of Kazakhstan.

**Footnote. Article 23 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010), dated 05.07.2011 No. 452 -IV (shall be enforced from 01.01.2012).**

#### **Article 24. Cooperation of tax service bodies with the authorized state and local executive bodies**

1. Tax service bodies shall cooperate with the authorized state and local executive bodies, develop and implement joint control measures in accordance with the legislation of the Republic of Kazakhstan, and ensure a mutual exchange of information.

2. The authorized government and local executive bodies are obliged to assist tax service bodies in performing their tax supervisory duties.

3. Tax service and customs bodies shall perform their tasks for implementation of tax audits in cooperation with each other.

4. Tax service bodies and local executive bodies shall cooperate with each other to collect taxes in accordance with Article 23 of this Code.

5. Powers of the authorized state and local executive bodies for collection of other mandatory payments into the budget are determined by the Special part of this Code.

6. Tax service bodies have the right to cooperate with the authorized state and local executive bodies by electronic means in the manner established by this Code.

#### **Article 25. Financial support, legal and social protection of tax service officials**



1. A tax service official is protected by the law during fulfillment of his/her official duties.

2. Non-compliance with lawful requests of a tax service official, insulting, threatening or violent behavior towards, or intrusion into the life, health or property of a tax service official or members of his/her family in connection with his/her professional activities, and other actions, preventing a tax service official from carrying out his/her duties shall have the consequences prescribed by the Laws of the Republic of Kazakhstan.

3. In cases of harm of moderate severity to the health of a tax service official being inflicted in connection with the fulfillment of his/her duties, he/she shall receive a single lump-sum compensation payment in the amount of five monthly salary payments from the national budget.

4. In cases of severe harm to the health of a tax service official being inflicted in connection with the fulfillment of his/her duties, which excludes further opportunity to perform professional duties, he/she shall receive a single lump-sum compensation payment in an amount equal to five times his annual salary from the national budget, as well as the difference between the size of his salary and pension (for life).

5. In the case of the death of a tax service official during the fulfillment of his/her duties, the family of the deceased or his dependents (heirs) shall:

1) receive a single lump-sum benefit in an amount equal to ten times the deceased's annual salary at the time of death from the national budget;

2) receive a state social survivor's pension in the amount and the manner, established by the legislation of the Republic of Kazakhstan on state social benefits for disability, survivor's pension and benefits for old age in the Republic of Kazakhstan.

6. Damage to health and property of a tax service official, and damage to health and property of family members or close relatives of a tax service official in connection with the fulfillment of his/her duty shall be compensated in accordance with the legislation of the Republic of Kazakhstan.

## **SECTION 2. TAX OBLIGATION**

### **Chapter 4. GENERAL PROVISIONS**

#### **Article 26. The tax obligation**

1. The tax obligation is a liability of a taxpayer to the Government, arising in accordance with the tax legislation of the Republic of the Kazakhstan, under which a taxpayer is obliged to be registered with a tax body, to determine taxation objects and (or) objects, related to taxation, to calculate and pay taxes and other obligatory

payments into the budget, and likewise advances and other payments on them, to complete tax forms, to submit tax forms, except for tax registers, promptly to a tax body.

2. The state, represented by a tax service body, has the right to request a taxpayer (a tax agent) to perform his/her tax obligation fully and in cases of non-compliance or deficient compliance to apply measures to ensure compliance in the manner, provided for by this Code.

**Footnote. Article 26 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).**

#### **Article 27. Taxation object and (or) an object related to taxation**

A taxation object and (or) an object related to taxation may be property or an action giving rise to a taxpayer having tax liabilities.

#### **Article 28. Tax base**

Tax base is the cost, physical or other characteristic of a taxation object, on the basis of which the amount of tax and other obligatory payments, payable into the budget, is determined.

#### **Article 29. Taxation rate**

1. The taxation rate is the amount of the tax liability resulting from a calculation of a tax and other obligatory payments into the budget per unit of a taxation object or tax base measurement.

2. The taxation rate is expressed in percent or in the absolute amount of a taxation object or a tax base measurement.

#### **Article 30. Taxation period**

The taxation period is a period of time, established in respect of certain taxes and other obligatory payments into the budget, at the end of which a tax object and a tax base shall be determined, and the amount of tax and other obligatory payments into the budget, are calculated.

### **Chapter 5. FULFILLMENT OF THE TAX OBLIGATION**

#### **Article 31. Fulfillment of the tax obligation**

1. Fulfillment of the tax obligation shall be performed by a taxpayer himself, unless otherwise provided by this Code.

2. A taxpayer shall perform the following actions to fulfill his tax liability:

- 1) register with a tax body;
- 2) keep records on taxation objects and (or) objects, related to taxation;
- 3) calculate, on the basis of his taxation objects and (or) objects, related to taxation, the tax base and taxation rate, amounts of taxes and other obligatory payments, payable to the budget, and likewise advances and current payments on them in accordance with the Special part of this Code;

- 4) complete and submit tax forms (except for tax registers) to the tax service bodies in the established manner;

- 5) pay the calculated and charged tax amounts and other obligatory payments into the budget, advances and current payments on taxes and other obligatory payments into the budget in accordance with the Special part of this Code.

3. The tax obligation must be fulfilled by a taxpayer in the manner and in the timescale, provided by the tax legislation of the Republic of Kazakhstan.

4. A taxpayer shall have the right to fulfill the tax obligation ahead of time.

5. The tax obligation of a taxpayer on payment of taxes and other obligatory payments into the budget and obligation to pay fines and penalties in non-cash form shall be recognized as fulfilled from the date of receipt of confirmation of receipt of the amount of taxes and other obligatory payments into the budget from a bank or an organization, performing certain banking operation or from the date of payment through cash machines or other electronic devices, and in the form of cash - from the day of payment of the mentioned amounts of taxes by the taxpayer to a bank or an organization, performing certain banking operations, to an authorized government body or a local executive body.

6. When payment of taxes and/or other obligatory payments into the budget, social security contributions, obligatory pension contributions is made by an authorized representative of a taxpayer in the cases, prescribed by this Code, a money sender shall state the name, last name, patronymic (if there is one) or the name of the taxpayer and his/her identity number.

7. The tax liability of a taxpayer to pay taxes, which is carried out by a tax agent, shall be recognized as fulfilled from the date of withholding of the tax.

8. The tax liability to pay taxes, fees, and the obligation to pay fines may be fulfilled through conducting set-offs in the manner, established by Article 599 of this Code.

9. The tax liability to pay taxes, other obligatory payments into the budget, and the obligation to pay fines and penalties shall be performed in the national currency, except in those cases, provided for by this Code and by legislative acts of the Republic of Kazakhstan regulating the activities of joint-stock companies, and where the legislation of the Republic of Kazakhstan and the provisions of contracts on subsoil use envisage payment in kind or payment in foreign currency.

Footnote. Article 31 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).

**Article 32. Specifics of calculation of taxes and other obligatory payments into the budget when fulfilling the tax obligation**

1. The calculation of tax to be withheld at the source of payment, shall be performed by a tax agent.

2. In the cases provided for by the Special part of this Code, the obligation to calculate the amount of certain taxes and other obligatory payments into the budget may be entrusted to a tax body and the authorized state bodies.

**Article 33. Periods for fulfillment of the tax obligation**

The period for fulfillment of a tax obligation shall be established by this Code. The period, established by this Code, begins on the day after an actual event or a legal action, which determines the beginning of the period for fulfilling the tax obligation. The period expires at the end of the last day of the period, established by this Code. If the last day of the period falls on a non-working day, the period shall expire at the end of the next working day.

**Article 34. The order of repayment of tax arrears**

Repayment of tax arrears shall be performed in the following order:

- 1) charged fines;
- 2) arrears;
- 3) penalties.

Footnote. Article 34 as amended by the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced from 01.01.2012).

**Article 35. Fulfillment of tax obligation when transferring a property to an entrusted administration**

1. The receivable (received) income and payable (paid) expenses and property, obtained and (or) received by an entrusted administration in the process of fulfillment of its entrusted obligations constitute income, expenses and property of the founder of that entrusted administration where there is an agreement on entrusted administration of property or of the beneficiary in other cases of entrusted administration.

Income of an entrusted administrator in the form of remuneration is an expense of a founder of the entrusted administration where there is an agreement on entrusted administration of property or of the beneficiary in other cases of entrusted administration.

When the fulfillment of the tax obligation is entrusted to an entrusted administration, the positive disparity between the income of a founder of the entrusted administration or its beneficiary and the expenses, provided for by this paragraph, minus the amount of losses of that founder or beneficiary carried forward from previous tax periods, and minus the amount of the tax obligation, fulfillment of which is entrusted to the entrusted administrator, is the net income from the entrusted administration of the founder of the entrusted administration under the agreement on entrusted administration of property or from the beneficiary in the other cases of entrusted administration.

Excess of expenses, provided for by this paragraph, over the income of a founder of the entrusted administration under the agreement on entrusted administration of property or beneficiary in the other cases of entrusted administration are losses from the entrusted administration of the founder of the entrusted administration under the agreement on entrusted administration of property or beneficiary in the other cases of entrusted administration.

2. The income of an entrusted administrator from an entrusted administration is the remuneration provided for by the Act on entrusted administration of property. Expenses, related to the fulfillment of an entrusted administration shall be recognized as expenses of the entrusted administrator, if the mentioned Act does not provide for reimbursement of the expenses of the entrusted administration at the expense of a founder of the entrusted administration under the agreement on entrusted administration of property or beneficiary in other cases of entrusted administration.

3. Fulfillment of the tax obligation of a founder of an entrusted administration under an agreement on entrusted administration of property or beneficiary in other cases of entrusted administration:

1) In relation to taxes and other obligatory payments into the budget, except for value-added tax, may be entrusted to an entrusted administrator by a founder of an entrusted administration on the basis of the Act on entrusted administration of property, except in those cases, provided for by paragraph 4 of this Article;

2) In relation to value-added tax is entrusted to an entrusted administrator in the cases and the manner, provided for by part 8 and Articles 568-571 of this Code.

If the fulfillment of the tax obligation relating to calculation, payment or withholding of taxes, or to other obligatory payments into the budget is entrusted to an entrusted administrator, this entrusted administrator must be registered with a tax body in the manner, established by Article 81 of this Code.

In such cases, the entrusted administrator shall fulfill the tax obligations relating to calculation, payment or withholding of taxes, and to other obligatory payments under the agreement on entrusted administration from the date of:

State registration of the entrusted administration, if there is a necessity for registration of this right in accordance with the legislation of the Republic of Kazakhstan; or

Conclusion of the agreement on the entrusted administration, if there is no necessity for registration of this right in accordance with the legislation of the Republic of Kazakhstan.

4. The founder of an entrusted administration under an agreement on entrusted administration of property or the beneficiary in other cases of entrusted administration shall personally fulfill the tax obligation, except for the tax obligation in respect of value-added tax, arising in connection with the transfer of property to the entrusted administration, in the manner, established by this Code in any of the following cases:

1) when the fulfillment of the tax obligation is not entrusted to an entrusted administrator;

2) if, on the day of establishment of the entrusted administration and during the entrusted administration, the entrusted administrator is related to the persons, applying the provisions of Article 134,135,135-1,181,182 and (or) Chapter 63 of this Code;

5. An entrusted administrator in order to fulfill the tax obligation on transfer of property to an entrusted administration shall be obliged to keep separate records in accordance with Article 58 of this Code.

6. The transfer of property to an entrusted administrator by a founder of an entrusted administration under an agreement on the entrusted administration of property or beneficiary in other cases of entrusted administration shall not be recognized as realization of this property or as the income of the entrusted administrator.

7. Return of property by an entrusted administrator upon termination of the document which serves as the basis for an entrusted administration shall not be recognized as realization of this property and shall not be recognized as an income (loss) of a founder of the entrusted administration under the agreement on the entrusted administration of property, or of a beneficiary in other cases of the entrusted administration.

8. If the fulfillment of the tax obligation relating to calculation, payment or withholding of the tax amounts and other obligatory payments into the budget, and completion and submission of tax forms is entrusted to an entrusted administrator on behalf of a founder of an entrusted administration under an agreement on the entrusted administration of property or of a beneficiary in other cases of the entrusted administration, the fulfillment of this tax obligation shall be performed on behalf of the person, who is the entrusted administrator, in accordance with the rates and the order, established by the Special part of this Code for that group of persons which includes the entrusted administrator.

In doing so, the entrusted administrator shall fully complete and submit the tax forms relating to its activities, including those performed in the interests of a founder of the entrusted administration of property and (or) beneficiary, unless otherwise prescribed by Articles 58 and 64 of this Code.

**Footnote. Article 15 as amended by the Laws of the Republic of Kazakhstan dated 19.01.2011 No. 395-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

**Article 36. Specifics of fulfilling the tax obligation when transferring property to an entrusted administration**

1. On transfer by an individual of property to an entrusted administration, which is entrusted to present the declaration prescribed by paragraph 2 of Article 185 of this Code, the tax obligation to present and file in this declaration shall be performed by that individual.

2. Legal entities, an individual entrepreneur in relation to income received from a bank's confidential operations and individuals and legal entities when transferring property to an entrusted administration of an entrusted administrator, which is a nonresident, must fulfill their tax obligations personally.

3. The tax obligation of an individual, who is not an individual entrepreneur, on the income from confidential operations, performed by a bank, which is a tax agent, shall be performed by this bank as part of its obligations as a tax agent.

4. A founder of an entrusted administration has the right not to register as an individual entrepreneur, if under an agreement on entrusted administration of property and in other cases of entrusted administration, provided for by the Laws of the Republic of Kazakhstan, the fulfillment of the tax obligations of the founder of the entrusted administration is fully entrusted to an entrusted administrator.

**Footnote. Article 36 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).**

**Article 37. Fulfillment of the tax obligation by a legal entity, which is under liquidation, and in termination of a structural unit's activity, a permanent establishment of a nonresident legal entity in the Republic of Kazakhstan**

1. A resident legal entity shall inform in a written form a tax body at its location on a decision on liquidation of the legal entity within three working days from the date of this decision-making.

2. Within three working days after the approval of the interim liquidation balance, the legal entity, undergoing liquidation, shall simultaneously submit the following documents to a tax body at its location:

- 1) a tax statement on the documentary checking;

- 2) a liquidation tax reporting;
- 3) a certificate of registration for the value added tax, or an clarification in a paper format in case of its loss or damage;
- 4) a tax application for the removal from the register for the value-added tax.

The documents listed in sub-paragraphs 3) and 4) of the first part of this paragraph shall be submitted in the case if a legal entity, undergoing liquidation, is a payer of the value-added tax.

3. The liquidation tax application shall be prepared on the basis of taxes, other obligatory payments to the budget, obligatory pension contributions and social contributions, paid by the legal entity, undergoing liquidation and (or) by the legal entity as a tax agent, within the period from the beginning of the tax period, when the tax declaration of the documentary checking was presented, up to the date of submission of this document.

If the deadline of submission of the next tax reporting comes after the submission of the liquidation tax reporting, the submission of this next tax reporting shall be performed no later than on the date of the liquidation tax reporting submission.

4. A legal entity, undergoing liquidation, shall pay taxes, other obligatory payments to the budget, social contributions, transfer obligatory pension contributions, reflected in the tax reporting no later than ten calendar days after submission of the liquidation tax reporting to a tax body.

If the deadline for the tax payment, other obligatory payments to the budget, social contributions, obligatory pension contributions, reflected in the tax reporting, submitted before the liquidation tax reporting, comes after the expiry of the period, mentioned in the first part of this paragraph, the payment (transfer) shall be performed no later than ten calendar days after the submission of the liquidation tax reporting to a tax body.

5. Documentary checking shall be started by tax bodies no later than twenty working days after the receipt of a legal entity's tax application.

6. Tax arrears of a legal entity, undergoing liquidation, appearing on the grounds, mentioned in paragraphs 4 and 11 of this Article, shall be repaid at the expense of its money, including the money, received after realization of its property, in the order of priority, established by the legislative acts of the Republic of Kazakhstan. At that, the tax arrears of structural units of the legal entity, undergoing liquidation, such as permanent establishments, structural units of the nonresident legal entity in case of joint fulfillment of the tax obligations by the group of permanent establishments, affiliates, representative offices, shall be repaid through the permanent establishment, structural unit which terminates its activity.

7. If the property of a legal entity, undergoing liquidation, is not enough to repay fully the tax arrears, the rest of the arrears shall be covered by founders (participants)



of the legal entity, undergoing liquidation in the cases, provided by the legislation of the Republic of Kazakhstan.

8. If a legal entity, undergoing liquidation, has overpaid amounts of taxes, fees and fines, these amounts of money shall be set off to repay tax arrears of the legal entity, undergoing liquidation in accordance with Article 599 of this Code.

If a legal entity, undergoing liquidation, has erroneously paid amounts of taxes and other obligatory payments to the budget, the mentioned amounts shall be set off in the order, established by Article 601 of this Code.

9. If a legal entity, undergoing liquidation, has an excess in amount of the value-added tax, which shall be set off over the amount of the charged tax, the indicated excess is reimbursed to the legal entity in the order, established by Articles 273, 600 and 603 of this Code.

10. In absence of arrears of a legal entity, undergoing liquidation:

1) the erroneously paid taxes and other obligatory payments to the budget shall be returned to this legal entity in the order, provided for by Article 601 of this Code;

2) the overpaid amounts of taxes, fees and fines shall be refunded to this legal entity in the order, established by Article 602 of this Code;

3) the paid amounts of other obligatory payments to the budget shall be refunded to this legal entity in the order, established by Article 602 of this Code;

**Note of the RCL!**

Sub-paragraph 4) shall be enforced from 01.01.2010 (see Article 2 of the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV).

4) the paid amounts of fines shall be refunded to this legal entity on the grounds and in the order, established by Article 605 of this Code;

**Note of the RCL!**

Sub-paragraph 5) shall be enforced from 01.01.2010 (see Article 2 of the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV).

5) the (erroneously) overpaid amounts of customs duties, taxes, customs contributions and fines, charged by customs bodies, shall be reimbursed to this legal entity in the order, established by the tax legislation of the Republic of Kazakhstan.

11. In case of appearance of tax obligation on payment of taxes and other obligatory payments to the budget, social contributions, obligatory pension contributions within the period from the date of submission of the liquidation tax reporting to the date of completion of the liquidation tax audit, a legal entity, undergoing liquidation, must perform these tax obligations, obligation on the grounds of the notification of the tax authority, mentioned in sub-paragraph 3) of paragraph 2 of Article 607 of this Code.

12. After completion of the documentary checking, a legal entity, undergoing liquidation, shall simultaneously submit the following documents to a tax body at the location:

- 1) A liquidation balance sheet;
- 2) A certificate of a bank and (or) an organization, which perform certain of banking operations, on closure of existing bank accounts;
- 3) A tax application for receipt of the data on absence and (or) presence of tax arrears, arrears of obligatory pension contributions and social contributions.

The documents, listed in this paragraph, shall be submitted by a legal entity within three working days from the date of completion of the documentary checking in case of observing the following conditions:

- 1) absence of tax arrears, arrears of obligatory pension contributions and social contributions;
- 2) absence of overpaid amounts of taxes, fees and fines;
- 3) absence of erroneously paid amounts of taxes, fees and fines;
- 4) absence of excess of the value-added tax which shall be set off over the amount of the charged tax, which shall be refunded in accordance with Articles 273 and 274 of this Code;
- 5) absence of unfulfilled tax application on conduction of the set-off and (or) refund of the (erroneously) overpaid customs duties, taxes, customs contributions and fines, charged by customs bodies.

In case of presence of tax arrears, arrears of obligatory pension contributions and social contributions, overpaid amounts of taxes, fees and fines, erroneously paid tax amounts, other obligatory payments to the budget, fines, penalties, and (or) the overpaid value-added tax, set off over the amount of the charged tax, which shall be refunded in accordance with Articles 273 and 274 of this Code, a legal entity, undergoing liquidation, shall submit the documents, listed in this paragraph, within three working days from the date which comes last from the date:

- 1) of repayment of tax arrears, arrears of obligatory pension contributions and social contributions;
- 2) of refund of the overpaid amounts of taxes, fees, fines;
- 3) of refund of the erroneously paid tax amounts, other obligatory payments to the budget, fines and penalties;
- 4) of refund of the (erroneously) overpaid amounts of customs duties, taxes, customs contributions and fines, charged by customs bodies.

After the submission of the documents, listed in this paragraph, a tax body must present the certificate on absence of tax arrears, arrears of obligatory pension contributions and social contributions in the order and within the period, establish by this Code;

13. Fulfillment of the tax obligation of a structural unit of a nonresident legal entity, as well as the permanent establishment of a nonresident legal entity, undergoing termination of its activity in the Republic of Kazakhstan, shall be performed in the order, established by this Article.

Footnote. Article 37 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2); dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).

**Article 38. Fulfilling the tax obligation of a structural unit of nonresident legal entity, undergoing termination of its activity**

1. A nonresident legal entity, in case of decision-making on termination of the activity of its structural unit, shall simultaneously present the following documents to a tax body at the location of the structural unit:

- 1) a tax application on activity termination;
- 2) a copy of the decision of a nonresident legal entity on termination of the activity of its structural unit;
- 3) a liquidation tax reporting of the structural unit unless otherwise provided by this Article.

2. The liquidation tax reporting shall be made on the basis of taxes, fees, obligatory pension contributions and social contributions, independently paid by an activity terminating structural unit of a legal entity, within the period from the beginning of the tax period, when the decision on termination of the activity of the structural unit was made, to the date of submission of the tax application on activity termination.

If the deadline of submission of the next tax reporting comes after submission of the liquidation tax reporting, the submission of this next tax reporting shall be performed no later than the date of submission of the liquidation tax reporting.

3. Payment of taxes, fees, social contributions, transfer of obligatory pension contributions, reflected in the liquidation tax reporting, provided by paragraph 2 of this Article, shall be performed by an activity terminating structural unit of a legal entity no later than ten calendar days after the date of submission of the liquidation tax reporting to a tax body.

If the deadline of the payment of taxes, fees, social contributions, transfer of obligatory pension contributions, reflected in the tax reporting, provided before the liquidation tax reporting, comes after the expiry of the period, mentioned in the first part of this paragraph, the payment (transfer) shall be performed no later than ten calendar days after the submission of the liquidation tax reporting.

4. If an activity terminating structural unit of a legal entity is not recognized as an independent payer of taxes, fees, obligatory pension contributions and social contributions, the liquidation tax reporting shall not be submitted.

5. Tax arrears, arrears of obligatory pension contributions and social contributions of an activity terminating structural unit shall be repaid at the expense of the legal entity that has created this structural unit.

6. After the full repayment of tax arrears, arrears of obligatory pension contributions and social contributions, the legal entity which created the activity terminating structural unit, shall submit the certificate of a bank and (or) an organization, performing certain banking operations, on closure of the existing bank accounts and termination of the activities of the structural unit to a tax body at the location of the structural unit.

The tax body shall be obliged to hand the certificate of absence of tax arrears, arrears of pension contributions and social contributions to a taxpayer in the order and within the period, established by this Code.

**Footnote. Article 38 as amended by the Laws of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 39. Fulfillment of the tax obligation in reorganization of a legal entity via merging, joining, separating**

1. A legal entity shall inform in a written form a tax body at its location on reorganization by merger, accession, separation within three working days after the date of decision-making.

Within three days from the date of approval of the transfer certificate, a legal entity, which is reorganized via merger, accession, separation, shall submit the following documents to a tax body at its location:

- 1) a liquidation tax reporting;
- 2) a certificate of registration for the value-added tax or the written clarification in case of its loss or damage;
- 3) a tax application for the removal from the register for the value-added tax;
- 4) a certificate of transfer.

The documents, listed in sub-paragraphs 2) and 3) of the second part of this paragraph shall be submitted if a legal entity, which is reorganized via merger, accession, separation, is a payer of the value-added tax.

The liquidation tax reporting shall be composed for the taxes, other obligatory payments to the budget, obligatory pension contributions and social contributions, in which a legal entity, reorganized via merger, accession, separation, is a payer and (or) a tax agent, within the period from the beginning of the tax period, when the obligation

of the presentation of this reporting appeared, to the date of its submission to a tax body.

The obligation for submission of the liquidation tax reporting in reorganizing via merger shall be entrusted to each legal entity, which became a part of the newly formed entity, in reorganizing via merger - to the joined legal entity.

If the deadline for submission of the next tax reporting comes after submission of the liquidation tax reporting, the submission of this next tax reporting shall be performed no later than the date of submission of the liquidation tax reporting.

In the reorganization of a legal entity by separation, this entity shall submit the separation balance sheet to a tax entity at its location within three working days from the date of the approval of the separation balance.

1-1. Fulfillment of the tax obligation of a reorganized legal entity shall be entrusted to its legal successor (legal successors).

1-2. The establishment of a legal successor (legal successors), and a share of legal successor (legal successors) in repayment of tax arrears of a reorganized legal entity shall be performed in accordance with the civil legislation of the Republic of Kazakhstan.

2. Reorganization of a legal entity shall not be the grounds for changing of the deadlines of fulfillment of the tax obligation on payment of taxes, other obligatory payments to the budget by a legal successor (legal successors) of this legal entity.

3. If a legal entity, undergoing reorganization, has overpaid amounts of taxes, fees and fines to the budget, these amounts shall be set off in the order, established by Article 599 of this Code.

If a legal entity, undergoing reorganization, has erroneously paid amounts of taxes, fees and fines to the budget, these amounts shall be set off in the order, established by Article 601 of this Code.

4. In the absence of tax arrears of a legal entity, undergoing reorganization:

1) the erroneously paid amounts of taxes and other obligatory payments to the budget shall be refunded to its legal successor (legal successors) in proportion to the share in the property, received by the legal successor (legal successors) during the reorganization, in the order, established by Article 601 of this Code;

2) the overpaid amounts of taxes, fees and fines to the budget shall be refunded to its legal successor (legal successors) in proportion of the share in property, received by the legal successor (legal successors) during the reorganization, in the order, established by Article 602 of this Code;

3) the paid amounts of other obligatory payments to the budget shall be refunded to its legal successor (legal successors) in proportion of the share in property, received by the legal successor (legal successors) during the reorganization, in the order, established by Article 606 of this Code;

5. *Excluded by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).*

6. A tax authority, within ten working days from the receipt of information of the national registers of identification numbers on the reorganization of legal entity by:

1) a merger - shall transfer the balance of the personal accounts of the members of a newly formed legal entity to a tax body at the location of the newly formed legal entity on the grounds of the certificate of transfer;

2) an accession - shall transfer the balance of a personal account of the joined legal entity to a tax body at the location of the legal entity, which accepted this legal entity, on the grounds of the certificate of transfer;

3) *excluded by the Law of the Republic of Kazakhstan dated 04.01.2009 No. 167-IV (shall be enforced from 01.01.2009);*

4) a separation - shall transfer the balance of the personal account of the legal entity, which separated a newly formed legal entity, to a tax body at the location of the newly formed legal entity on the ground of the separation balance sheet.

The order of the transfer of the balance of the personal accounts of a legal entity shall be established by Article 595 of this Code.

*Footnote. Article 39 as amended by the Laws of the Republic of Kazakhstan dated 04.07.2009 No. 167-IV (the order of enforcement see Article 2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 21.07.2011; 467-IV (the order of enforcement see Article 9).*

**Article 39-1. Fulfilling the tax obligation of a permanent establishment without the opening of a branch (a representative office) of a nonresident legal entity when transferring its rights and responsibilities in connection with the presence of the place of effective management (the location of the actual governing body) in the Republic of Kazakhstan**

1. A nonresident legal entity, if it has a permanent establishment without opening a branch (a representative office) in the Republic of Kazakhstan and decided to move the place of effective management (location of the actual governing body) from a foreign state to the Republic of Kazakhstan, shall be obliged, within three working days after filing a tax application on registration as a taxpayer in accordance with paragraph 1-1 of Article 562 of this Code, to inform in a written form the tax body at the location of such permanent establishment on transfer of the rights and obligations by such permanent establishment to a legal entity, a place of effective management (location of the actual governing body) of which is located in the Republic of Kazakhstan.

Within fifteen calendar days from the registration as a taxpayer, a permanent establishment of the mentioned nonresident legal entity shall be obliged to submit the following documents to a tax body:

- 1) a tax application on removal from the register;
- 2) the liquidation tax reporting;
- 3) a certificate of transfer.

The liquidation tax reporting shall be made on the taxes, other obligatory payments to the budget, obligatory pension contributions and social contributions, on which the permanent establishment, transferring rights and responsibilities, is a payer and (or) a tax agent, within the period from the beginning of the tax period, when the obligation on submission of this tax reporting appeared, to the date of its submission to a tax body.

If the deadline for submission of the next tax reporting comes after submission of the liquidation tax reporting, the submission of this next tax reporting shall be performed no later than the date of submission of the liquidation tax reporting.

2. Fulfillment of the tax obligation of a permanent establishment, transferring rights and responsibilities to a legal entity, shall be entrusted to this legal entity, created under the legislation of a foreign state, a place of effective management (location of the actual governing body) of which is located in the Republic of Kazakhstan (legal successor).

3. Transfer of rights and responsibilities by a permanent establishment to a legal entity shall not be recognized as the grounds for changing of deadlines for fulfillment of its tax obligation on payment of taxes, other obligatory payments to the budget by the legal entity, created under the legislation of a foreign state, a place of effective management (location of the actual governing body) of which is located in the Republic of Kazakhstan.

4. If a permanent establishment, transferring rights and responsibilities to a legal entity, does not have tax arrears, the overpaid amounts of taxes, fees and fines to the budget shall be refunded to the legal entity, created under the legislation of a foreign state, a place of effective management (location of the actual governing body) of which is located in the Republic of Kazakhstan.

5. A tax body, within ten working days from the receipt of the documents, listed in paragraph 1 of this Article, shall transfer the balance of the personal account of a permanent establishment, transferring rights and responsibilities to a legal entity, to a tax body at the location of the legal entity, the rights and the responsibilities were transferred to, under the certificate of transfer in the order, established by article 595 of this Code.

**Footnote.** The Code is supplemented with Article 39-1 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

**Article 40. Fulfilling the tax obligation of a legal entity in reorganization via separation**



1. A legal entity shall inform a tax body at its location on the decision on reorganization via separation within three working days from the date of the decision-making.

A legal entity in reorganization via separation, within three working days after the approval of the separation balance, shall submit to a tax body at its location the following documents:

- 1) a tax application on implementation of the documentary checking;
- 2) the liquidation tax reporting;
- 3) a certificate of the registration for the value-added tax or the clarification in a written form in case of its loss or damage;
- 4) a tax application for removal from the register from the value-added tax.

The documents, listed in sub-paragraphs 3) and 4) of the second part of this paragraph shall be submitted, if a legal entity, undergoing reorganization by separation, is a payer of the value-added tax.

2. The liquidation tax reporting shall be made on the taxes, other obligatory payments to the budget, obligatory pension contributions and social contributions, on which a legal entity, undergoing reorganization, is a payer and (or) a tax agent, within the period from the beginning of the tax period, when the tax application on implementation of the documentary checking was presented, to the date of submission of this application.

If the deadline for submission of the next tax reporting comes after submission of the liquidation tax reporting, the submission of this next tax reporting shall be performed no later than the date of submission of the liquidation tax reporting.

3. Payment of taxes, other obligatory payments to the budget, social contributions, and transfer of obligatory pension contributions, reflected in tax reporting, shall be performed by a legal entity, undergoing liquidation, no later than ten calendar days from the date of submission of the liquidation tax reporting to a tax body.

If the deadline for payment of taxes, other obligatory payments to the budget, social contributions, and transfer of obligatory pension contributions, reflected in tax reporting, submitted before the liquidation tax reporting, comes after the period expiry, the payment (transfer) shall be performed no later than ten calendar days from the date of submission of the liquidation tax reporting.

4. The documentary checking shall be started by a tax body no later than twenty working days after receipt of the tax application from a legal entity, undergoing reorganization.

5. After completion of the documentary checking in the reorganization by separation, a legal entity, undergoing reorganization, shall simultaneously submit the following documents to a tax body at its location:

- 1) a separation balance sheet;



2) a certificate of a bank and (or) an organization, performing certain of banking operations, on closure of the existing bank accounts;

3) the tax application for receipt of the data on absence and (or) presence of tax arrears, arrears of obligatory pension contributions and social contributions.

If a legal entity, undergoing reorganization, has overpaid amounts of taxes, fees and fines to the budget, these amounts shall be set off for repayment of tax debts of a legal entity, undergoing reorganization in the order, established by Article 599 of this Code.

If a legal entity, undergoing reorganization, has erroneously paid amounts of taxes, fees and fines to the budget, these amounts shall be set off in the order, established by Article 601 of this Code.

If a legal entity, undergoing reorganization, has not any tax arrears:

1) the erroneously paid amounts of taxes and other obligatory payments to the budget shall be refunded to its legal successor (legal successors) in proportion to the share in the property, received by the legal successor (legal successors) during the reorganization, in the order, provided for by Article 601 of this Code;

2) the overpaid amounts of taxes, fees and fines to the budget shall be refunded to its legal successor (legal successors) in proportion to the share in property, received by the legal successor (legal successors) during the reorganization, in the order, established by Article 602 of this Code;

3) the paid amounts of other obligatory payments to the budget shall be refunded to its legal successor (legal successors) in proportion to the share in property, received by the legal successor (legal successors) during the reorganization, in the order, established by Article 606 of this Code;

**Note of the RCL!**

**Sub-paragraph 4) shall be enforced from 01.01.2010 (see Article 2 of the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV).**

4) the (erroneously) overpaid to the budget amounts of customs duties, taxes, customs contributions and fines, charged by customs bodies, shall be refunded to its legal successor (legal successors) in proportion to the share in property, received by the legal successor (legal successors) during the reorganization, in the order, established by the customs legislation of the Republic of Kazakhstan;

5) the (erroneously) overpaid amounts of penalties shall be refunded to its legal successor (legal successors) in proportion to the share in property, received by the legal successor (legal successors) during the reorganization, in the order, established by Article 605 of this Code.

A legal entity, undergoing reorganization, shall submit the documents, listed in this paragraph, within three working days from the date of completion of the documentary checking in case of simultaneous observance of the following conditions:

- 1) absence of tax arrears, arrears on obligatory pension contributions and social contributions;
- 2) absence of overpaid amounts of taxes, fees and fines;
- 3) absence of erroneously paid amounts of taxes, other obligatory payments to the budget, fines and penalties;
- 4) absence of unfulfilled tax application on conduction of the set-off and (or) refund of the (erroneously) overpaid amounts of customs duties, taxes, customs contributions and fines, charged by the customs bodies.

If there are any tax arrears, arrears on obligatory pension contributions, social contributions, overpaid amounts of taxes, fees and fines, erroneously paid amounts of taxes, other obligatory payments to the budget, fines and penalties, a legal entity, undergoing reorganization, shall submit the documents, listed in this paragraph, within three working days from the date that comes last:

- 1) after the date of repayment of tax arrears, arrears of obligatory pension contributions and social contributions;
- 2) after the date of reimbursement of the overpaid amount of taxes, fees, fines;
- 3) after the date of reimbursement of the erroneously paid amounts of taxes, other obligatory payments to the budget, fines and penalties.
- 4) after the date of reimbursement of the (erroneously) overpaid amounts of customs duties, taxes, customs contributions and fines, charged by customs bodies.

6. The tax authority after the submission of the documents mentioned in the first part of paragraph 5 of this Article, reorganized by entity must give the person a certificate of no tax arrears, arrears of pension contributions and social contributions in the manner and time stipulated by this Code.

The tax authority transfers personal accounts part of the legal entity to the tax authority at the location of the new legal entities on the basis of the separation balance sheet in accordance with Article 595 of this Code within ten working days of receipt of information of national registers of identification numbers on balance.

6-1. Fulfillment of the tax obligations of the reorganized legal entity entrusted to his successor(s).

6-2. Establishment of successor(s), as well as interest successor (s) in the repayment of tax debts reorganized legal entity shall be in accordance with the Civil Code of the Republic of Kazakhstan.

7. The reorganization of the legal entity is not a basis for changing the dates of execution of his tax liability for payment of taxes and other obligatory payments to the budget of the successor (successors) of the legal entity.

**Footnote. Article 40 as amended by the Law of Republic of Kazakhstan dated 04.07.2009 No. 167-IV (the order of enforcement see Article 2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.12.2009 No. 234-IV (shall be**

enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (order of enforcement see Article 2); dated 21.07.2011 No. 467-IV (order of enforcement see Article 9).

**Article 41. Fulfillment of tax liability of individual entrepreneur who terminates the business.**

1. Individual entrepreneur within a month from the date of the decision to cease operations at the same time shall submit to the tax authority at the place of business:

- 1) tax statement on documentary checks;
- 2) residual tax reporting;
- 3) certificate of registration as an individual entrepreneur or commentary on paper when loss or damage;
- 4) the certificate of registration with the tax on value added or commentary on paper when loss or damage;
- 5) proof of publication in periodical information on the termination of an individual entrepreneur;
- 6) tax application for removal from the register on the value added tax.

The documents referred to in sub-paragraphs 4) and 6) of the first part of this paragraph, shall be submitted, if an individual entrepreneur who terminates operations is the payer of value added tax.

2. Liquidation tax reports are prepared by of tax and other obligatory payments to the budget, mandatory pension contributions and social contributions for which the individual entrepreneur who terminates operations, payers, and (or) tax agent since the beginning of the tax period in which the tax application submitted on documentary check, to the date of the application.

If the deadline for the next tax returns comes after the submission of the liquidation of tax reporting, the provision of such regular tax returns not later than the date of the liquidation of tax reporting.

3. Payment of taxes and other obligatory payments to the budget, social security contributions, the transfer of mandatory pension contributions, as reflected in the liquidation of the tax reporting is self-employed, discontinued operations, not later than ten calendar days from the date of submission to the tax authorities of the liquidation of tax reporting.

If the deadline for the payment of taxes and other obligatory payments to the budget, social security contributions, transfer of mandatory pension contributions, as reflected in the tax returns submitted to the liquidation of the tax reporting, comes after the expiry of the period specified in the first part of this paragraph, the payment (transfer) shall be made no later than ten calendar days from the date of submission of the liquidation of tax reporting.

4. Documentary check should be initiated no later than twenty working days after receipt by the tax authority of the tax application of the individual entrepreneur who terminates operations.

5. Tax debt of an individual entrepreneur who terminates operations, redeemed by his money, including the proceeds from the sale of the property, in order of priority established by the legislative acts of the Republic of Kazakhstan.

6. If an individual entrepreneur who terminates his/her activity, has erroneously paid amounts of taxes, fees and fines to the budget, these amounts shall be set off in the order, established by Article 601 of this Code.

7. If an individual entrepreneur who terminates his/her activity, does not have any arrears:

1) the erroneously paid amount of taxes and other obligatory payments to the budget shall be refunded to this individual entrepreneur in the order, established by Article 601 of this Code;

2) the overpaid amounts of taxes, fees and fines to the budget shall be reimbursed to this individual entrepreneur in the order, established by Article 602 of this Code;

3) the paid amounts of other obligatory payments to the budget shall be reimbursed to this individual entrepreneur in the order, established by Article 606 of this Code;

**Note of the RCLI!**

**Sub-paragraph 4) shall be enforced from 01.01.2010 (see Article 2 of the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV).**

4) the paid amounts of taxes shall be refunded to this individual entrepreneur in the order, established by Article 605 of this Code;

**Note of the RCLI!**

**Sub-paragraph 5) shall be enforced from 01.01.2010 (see Article 2 of the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV).**

5) the (erroneously) overpaid to the budget amounts of customs duties, taxes, customs contributions and fines, charged by customs bodies, shall be refunded to this individual entrepreneur in the order, established by the customs legislation of the Republic of Kazakhstan;

8. The tax obligation of an individual entrepreneur who terminated his/her activity, shall be recognized as fulfilled after completion of the documentary checking, if tax arrears, arrears of obligatory pension contributions and social contributions are fully repaid.

9. The date of removal of an individual entrepreneur from the register in a tax body shall be recognized as the date of fulfillment of his/her tax obligation in accordance with paragraph 8 of this Article.

10. An individual entrepreneur who terminated his/her activity, shall be obliged to submit to a tax body at his/her location the following documents:

1) a certificate from a bank and (or) an organization, performing certain of banking operations, on closure of existing bank accounts;

2) a document of an internal affairs body on destruction of the stamp (if there is one) of an individual entrepreneur.

An individual entrepreneur shall submit the documents, listed in this paragraph, within three working days from the date of completion of the documentary checking in case of simultaneous observance of the following conditions:

1) absence of tax arrears, arrears on obligatory pension contributions and social contributions;

2) absence of overpaid amounts of taxes and other obligatory payments to the budget, fees and fines;

3) absence of the erroneously paid amounts of taxes, other obligatory payments to the budget, fines and penalties;

4) absence of excess of the value-added tax, which is set off over the amount of charged tax, which shall be refunded in accordance with Articles 273 and 274 of this Code;

5) absence of unfulfilled tax application on conduction of the set-off and (or) refund of the (erroneously) overpaid amounts of customs duties, taxes, customs contributions and fines, charged by customs bodies.

If there are tax arrears, arrears of obligatory pension contributions, social contributions, overpaid amounts of taxes, fees and fines, the erroneously paid amounts of taxes, other obligatory payments to the budget, fines and penalties and (or) excess of the value-added tax, which shall be set off over the amount of charged tax, which shall be refunded in accordance with Articles 273 and 274 of this Code, an individual entrepreneur who terminated his/her activity, shall submit the documents, listed in this paragraph, within three working days from the date, which comes last:

1) after the date of repayment of tax arrears, arrears of obligatory pension contributions and social contributions;

2) from the date of reimbursement of the overpaid amounts of taxes, fees, fines;

3) from the date of reimbursement of the erroneously paid amounts of taxes, other obligatory payments to the budget, fines and penalties;

4) from the date of reimbursement of the value-added tax, set off over the amount of charged tax, which shall be refunded in accordance with Articles 273 and 274 of this Code;

5) from the date of reimbursement of the (erroneously) overpaid amounts of customs duties, taxes, customs contributions and fines, charged by customs bodies.

11. The provisions of these Articles shall not be applied to individual entrepreneurs, who are under special order of fulfillment of the tax obligation in termination of his/her activity in accordance with Article 43 of this Code.

Footnote. Article 41 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2); dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).

**Article 42. Fulfilling the tax obligation of a private notary, a private enforcement agent, a lawyer, undergoing termination of his/her practice**

Footnote. The title as amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).

1. A private notary, a private enforcement agent, a lawyer shall be obliged within one month after the decision on termination of a notary, lawyer practice, to submit simultaneously the following documents to a tax body at his/her location:

- 1) a tax application on implementation of the documentary checking;
- 2) the liquidation tax reporting;
- 3) a document, confirming publication in an official publisher of the information on termination of practice of a private notary, a private enforcement agent, a lawyer.

2. The liquidation tax reporting shall be made on the basis of taxes, other obligatory payments to the budget, obligatory pension contributions and social contributions, on which a private lawyer, notary, enforcement agent, who terminates his/her practice, is a payer and (or) a tax agent, within the period from the beginning of the tax period, when the tax application on implementation of the documentary checking is presented, to the date of submission of this application.

If the deadline for submission of the next tax reporting comes after submission of the liquidation tax reporting, the submission of this next tax reporting shall be performed no later than the date of submission of the liquidation tax reporting.

3. Payment of taxes and other obligatory payments to the budget, social contributions, and transfer of obligatory pension contributions, reflected in the tax reporting, shall be performed by a private notary, a private enforcement agent, a lawyer, who terminates his/her practice, no later than ten calendar days from the date of submission of the liquidation tax reporting to a tax body.

If the deadline of payment of taxes, other obligatory payments to the budget, social contributions, and transfer of obligatory pension contributions, reflected in the tax reporting, submitted before the liquidation tax reporting, comes after expiry of the period, mentioned in the first part of this paragraph, the payment (transfer) shall be performed no later than ten calendar days from the date of submission of the liquidation tax reporting.

4. The documentary checking must start no later than twenty working days after the receipt of the application of a private notary, a private enforcement agent, and a lawyer, who terminates his/her practice, by a tax body.

5. If a private notary, a private enforcement agent, a lawyer, who terminates his/her practice, has overpaid amounts of taxes, fees and fines, these amounts shall be set off over repayment of the tax arrears of a private notary, a private enforcement agent, a lawyer, who terminates his/her practice, in the order, established by Article 599 of this Code.

If a private notary, a private enforcement agent, a lawyer, who terminates his/her practice, has erroneously paid amounts of taxes, fees and fines to the budget, these amounts shall be set off in the order, established by Article 601 of this Code.

6. If a private notary, a private enforcement agent, a lawyer, who terminates his/her practice does not have any tax arrears:

1) the erroneously paid amounts of taxes, fees and fines to the budget shall be refunded to this private notary, a private enforcement agent, a lawyer in the order, established by Article 601 of this Code;

2) the overpaid amounts of taxes, fees and fines to the budget shall be refunded to this private notary, a private enforcement agent, a lawyer in the order, established by Article 602 of this Code;

3) the paid amounts of other obligatory payments to the budget shall be refunded to this private notary, a private enforcement agent, a lawyer in the order, established by Article 606 of this Code.

4) the paid amounts of penalties shall be reimbursed to this private notary, a lawyer, who terminates his/her practice, in the order, established by Article 605 of this Code;

5) the (erroneously) overpaid to the budget amounts of customs duties, taxes, customs contributions and fines, charged by customs bodies, shall be refunded to this private notary, a lawyer, who terminates his/her practice, in the order, established by the customs legislation of the Republic of Kazakhstan.

7. The tax obligation of a private notary, a private enforcement agent, a lawyer, who terminated his/her practice, shall be recognized as fulfilled after completion of the documentary checking, if tax arrears, arrears of obligatory pension contributions and social contributions are absent or fully repaid.

8. The date of removal of a private notary, a private enforcement agent, a lawyer from the register in a tax body, shall be recognized as the date of fulfillment of the tax obligation in accordance with paragraph 7 of this Article.

9. A private notary, a private enforcement agent, a lawyer who terminated his/her practice, shall be obliged to submit to a tax body at his/her location the following documents:

1) a certificate of a bank and (or) other organization, performing certain banking operations, on closure of existing bank accounts used for the implementation of court orders, notary, lawyer practice;



2) a document of an internal affairs body on destruction of the stamp (if there is one) of a private notary, a private enforcement agent, a lawyer.

A private notary, a private enforcement agent, a lawyer who terminated his/her practice, shall submit the documents, listed in this paragraph, within three working days after completion of the documentary checking in case of simultaneous observance of the following conditions:

1) absence of tax arrears, arrears of obligatory pension contributions and social contributions;

2) absence of overpaid amounts of taxes, fees and fines;

3) absence of the erroneously paid amounts of taxes, other obligatory payments to the budget, fines and penalties;

4) absence of unfulfilled tax application on conduction of the set-off and (or) refund of the (erroneously) paid amounts of customs duties, taxes, customs contributions and fines, charged by customs bodies.

If there are any tax arrears, arrears of obligatory pension contributions, social contributions, overpaid amounts of taxes, fees and fines, the erroneously paid amounts of taxes, other obligatory payments to the budget, fines and penalties, a private notary, a private enforcement agent, a lawyer, who terminated his/her practice, shall submit the documents, listed in this paragraph, within three working days after the date, which comes last:

1) after the date of repayment of tax arrears, arrears of obligatory pension contributions and social contributions;

2) after the date of refund of the overpaid amounts of taxes, fees, fines;

3) after the date of reimbursement of the erroneously paid taxes, other obligatory payments to the budget, fines and penalties;

4) after the date of refund of the (erroneously) paid amounts of customs duties, taxes, customs contributions and fines, charged by customs bodies.

**Footnote. Article 42 as amended by the Laws of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010); dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2); dated 28.12.2010 No. 368-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).**

#### **Article 43. Specifics of fulfillment of the tax obligation by certain groups of taxpayers when terminating their activity**

1. In case of making a decision on termination of the activity, an individual entrepreneur, applying special tax regime on the basis of a patent, a simplified declaration, shall simultaneously submit to a tax body at his/her location the following documents:



- 1) the tax application on termination of the activity;
- 2) the liquidation tax reporting;
- 3) a certificate of state registration of the individual entrepreneur or a clarification in a written form in case of its loss or damage;
- 4) the document, confirming publication of the information on termination of the activity of the individual entrepreneur in a periodical publisher.

This Article shall be applied to the individual entrepreneurs, who are not (were not) payers of the value added tax and who were continuously applying special tax regime on the basis of a patent and (or) a simplified declaration within the period, established by Article 46 of this Code or from the date of state registration as an individual entrepreneur.

2. The liquidation tax reporting shall be made on the taxes, other obligatory payments to the budget, obligatory pension contributions and social contributions, on which an individual entrepreneur, undergoing termination of his/her activity, is a payer and (or) a tax agent, within the period from the beginning of the tax period, when the tax application on termination of the activity is presented, to the date of submission of this application.

If the deadline of submission of the next tax reporting comes after submission of the liquidation tax reporting, submission of this next tax reporting shall be performed no later than the date of submission of the liquidation tax reporting.

3. Payment of taxes, other obligatory payments to the budget, social contributions, and transfer of obligatory pension contributions, reflected in the liquidation tax reporting, shall be performed by a taxpayer no later than ten calendar days after the date of submission of the liquidation tax reporting to a tax body.

If the deadline of payment of taxes, other obligatory payments to the budget, social contributions, and transfer of obligatory pension contributions, reflected in the tax reporting, submitted before the liquidation tax reporting, comes after the expiry of the period, mentioned in the first part of this paragraph, the payment (transfer) shall be performed no later than ten calendar days from the date of submission of the liquidation tax reporting to a tax body.

4. If a taxpayer has overpaid amounts of taxes and other obligatory payments to the budget, these amounts shall be refunded to this taxpayer in the order, established by Article 602 of this Code.

If a taxpayer, who terminates his/her activity, has erroneously paid amounts of taxes, fees and fines to the budget, these amounts shall be set off in the order, established by Article 601 of this Code.

5. Tax body shall be obliged within three working days after the receipt of a taxpayer's tax application on termination of the activity to send an inquiry:

1) to the authorized tax bodies - for presenting information about the transactions with the property, subjected to the state registration, conducted by an individual, who is an individual entrepreneur, who terminates his/her activity, and his/her property as of the date of receipt of the tax application on termination of the activity;

2) to customs bodies - for presenting information about foreign-trade transactions, conducted by an individual, who is an individual entrepreneur, who terminates his/her activity, and confirming absence of arrears of customs duties and taxes on the date no earlier than the date of the request of a tax body;

3) to banks and (or) organizations, performing certain banking operations, - for presenting information about balances and cash flow in the bank accounts of an individual entrepreneur, who terminates his/her activity, on the date of receipt of the tax application on termination of the activity.

Information about transactions, specified by sub-paragraphs 1) and 2) of this paragraph, and information about cash flow in bank accounts, shall be presented for the period, when there was no tax audit of a taxpayer, within the period of action limitation, established by Article 46 of this Code, to the date of receipt by a tax body of the tax application on termination of the activity.

6. The information under the request of a tax body, mentioned in paragraph 5 of this Article, shall be presented no later than twenty working days from the date of its receipt, unless otherwise provided by sub-paragraph 12) of Article 581 of this Code.

7. A tax body shall be obliged no later than ten working days after receipt of all the information, to perform the in-house audit, on the results of which a conclusion shall be drawn, in the order, established by this Code. The conclusion shall reflect the results of the in-house audit, including the revealed violations. The notification to eliminate the revealed violations on the results of the in-house audit, based on the conclusion, reflecting the revealed violations, shall be sent to the taxpayer in the order, established by Chapter 84 of this Code.

Fulfillment of the notification to eliminate the violations, revealed by the results of the in-house audit, shall be performed by the taxpayer in the order, established by Article 587 of this Code.

8. Tax arrears of an individual entrepreneur, who terminates his/her activity, shall be covered at the expense of the money of this individual entrepreneur, including the money, received from realization of the property of the individual entrepreneur in the order of priority, established by legislative acts of the Republic of Kazakhstan.

9. If an individual entrepreneur, who terminates his/her activity, has overpaid amounts of taxes, fees and fines to the budget, these amounts shall be set off for repayment of tax arrears of this individual entrepreneur in the order, established by Article 599 of this Code.

If an individual entrepreneur, who terminates his/her activity, has erroneously paid amounts of taxes, fees and fines to the budget, these amounts shall be set off in the order, established by Article 601 of this Code.

10. If a taxpayer, who terminates his/her activity, does not have any tax arrears:

1) the erroneously paid amounts of taxes and other obligatory payments to the budget shall be refunded to this taxpayer in the order, established by Article 601 of this Code;

2) the overpaid amounts of taxes, fees and fines to the budget shall be refunded to this taxpayer in the order, established by Article 602 of this Code;

3) the paid amount of other obligatory payments to the budget shall be refunded to this taxpayer in the order, established by Article 606 of this Code;

**Note of the RCLI!**

Sub-paragraph 4) shall be enforced from 01.01.2010 (see Article 2 of the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV).

4) the paid amounts of penalties shall be refunded to this taxpayer in the order, established by Article 605 of this Code;

**Note of the RCLI!**

Sub-paragraph 5) shall be enforced from 01.01.2010 (see Article 2 of the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV).

5) the (erroneously) overpaid amounts of customs duties, taxes, customs contributions and fines, charged by customs bodies, shall be reimbursed to this taxpayer in the order, established by the customs legislation of the Republic of Kazakhstan.

11. The activity of an individual entrepreneur shall be recognized as terminated in case of fulfillment of the following conditions:

1) completion of the in-house audit, the date of which shall be determined in accordance with Article 587 of this Code;

1-1) elimination of the violations, revealed during the in-house audit;

2) absence of tax arrears, arrears of obligatory pension contributions and social contributions.

12. The date of removal of an individual entrepreneur from the register in a tax body shall be one of the dates, which come the last in fulfillment of the conditions, provided for by paragraph 11 of this Article.

13. The individual entrepreneur, whose activity shall be recognized as terminated, shall be obliged to submit to a tax body at his/her location the following documents:

1) a certificate of a bank and (or) an organization, performing certain of banking operations, on closure of existing bank accounts.

2) a document of an internal affairs body on destruction of the stamp (if there is one) of an individual entrepreneur.

The individual entrepreneur, whose activity shall be recognized as terminated, shall submit the documents, listed in this paragraph, within three working days after the date of completion of the in-house audit, in case of fulfillment of the following conditions:

- 1) absence of tax arrears, arrears of obligatory pension contributions and social contributions;
- 2) absence of the overpaid amounts of taxes, fees and fines;
- 3) absence of the erroneously paid amounts of taxes, other obligatory payments to the budget, fines and penalties;
- 4) absence of the unfulfilled tax application on conduction of the set-off and (or) refund of the (erroneously) overpaid amounts of customs duties, taxes, customs contributions and fines, charged by customs bodies.

If there are any tax arrears, arrears of obligatory pension contributions, social contributions, overpaid amounts of taxes, fees and fines, the erroneously paid amounts of taxes, other obligatory payments to the budget, fines and penalties, an individual entrepreneur, whose activity shall be recognized as terminated, shall submit the documents, listed in this paragraph, within three working days from the date, which comes first:

- 1) after the date of repayment of tax arrears, arrears of obligatory pension contributions and social contributions;
- 2) after the date of reimbursement of the overpaid amounts of taxes, fees, fines;
- 3) after the date of reimbursement of the erroneously paid amounts of taxes, other obligatory payments to the budget, fines and penalties;
- 4) after the date of reimbursement of the (erroneously) overpaid amounts of customs duties, taxes, customs contributions and fines, charged by customs bodies.

**Footnote. Article 43 as amended by the Laws of the Republic of Kazakhstan dated 04.07.2009 No.167-IV (shall be enforced from 01.01.2009); dated 30.12.2009 No. 234 -IV (shall be enforced from 01.01.2010); dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2); dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).**

#### **Article 44. Fulfillment of the tax obligation of an individual, recognized as missing**

1. The tax obligation of an individual shall be suspended from the date of his/her recognition as missing, on the basis of the court decision.

2. The tax liability of an individual, recognized by the court as missing, shall be covered by a person, who is entrusted with guardianship over the property of the individual, recognized as missing.

3. If the property of an individual, who is recognized as missing, is not enough for repayment of tax arrears, his/her outstanding arrears shall be written off by a tax body under the court decision on insufficiency of the property.

4. In the event that a court revokes decision on recognizing a person missing, the previously written off tax arrears shall be reinstated regardless of the limitation period, established by Article 46 of this Code.

#### **Article 45. Repayment of tax arrears of a deceased individual**

1. The tax debt of a deceased individual owed as of the date of his death or the date of his/her death declaration shall be repaid by his/her heir (heirs) within the value of the property inherited and in proportion to the heir's share in the estate as of the date it is received.

If the property of a deceased individual, as well as an individual declared deceased under a court decision is not enough for repayment of tax arrears, the outstanding part of tax arrears shall be written off by a tax body on the basis of the court decision on insufficiency of the property.

2. If a heir (heirs) is (are) underage, the obligation on repayment of tax arrears of an individual as of the date of his/her death or the date of his/her death declaration within the value of the inherited property, and in proportion to the share in the inheritance as of the date of its receipt, shall be entrusted to this (these) heir (heirs) only under the implemented court decision.

3. Tax arrears of an individual as of the date of his/her death or the date of declaration of his/her death under the implemented court decision, shall be recognized as repaid in the cases if:

1) an underage heir (heirs) is released from fulfillment of the tax obligation on repayment of these arrears under the implemented court decision;

2) absence of an heir (heirs).

In the event that a court revokes a decision to declare an individual deceased, the previously written off tax arrears shall be reinstated regardless of the limitation period, established by Article 46 of this Code.

4. The provision of this Article shall also be applied to a deceased individual entrepreneur, private notary, private enforcement agent, a lawyer or an individual entrepreneur, private notary, private enforcement agent, a lawyer, who was declared deceased on the basis of the implemented court decision.

**Footnote. Article 45 as amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).**

#### **Article 46. Limitation period for the tax obligation and request**

1. A limitation period for the tax obligation and request - is a period of time within which:

1) a tax service body shall have the right to charge or reconsider the calculated, charged amount of taxes and other obligatory payments to the budget;

2) a taxpayer (a tax agent) shall be obliged to submit tax reporting, and shall have the right to make changes and additions to tax reporting, and to revoke tax reporting;

3) a taxpayer (a tax agent) shall have the right to request the set-off and (or) refund the taxes and other obligatory payments to the budget, fines;

4) a tax service body shall be obliged to perform the set-off and (or) refund taxes and other obligatory payments to the budget, fines.

2. Limitation period for the tax obligation and request shall last five years. Duration of a limitation period shall start after expiry of a certain tax period, except for the cases , provided for by this Article.

3. With respect to the taxpayers, performing activity in accordance with a contract on subsurface use, a tax service shall have the right to charge or reconsider a charged amount of the excess profit tax, as well as taxes and other obligatory payments to the budget, if they use one of the following indices: internal standard of profitability (ISP) or R-factor (yield index) for their calculation method, within the period of a contract on subsurface use and five years after expiry of the contract on subsurface use.

4. Charge and reconsideration of a calculated amount of taxes and other obligatory payments to the budget, regarding operations with a taxpayer, recognized as a false enterprise, or a transaction (transactions), performed by a subject of individual entrepreneurship without intention to carry out an entrepreneurial activity, shall be performed by a tax service body after implementing a sentence or a resolution of a court.

5. In the event that a taxpayer (a tax agent) submits an additional tax reporting for the period on which the limitation period, established in paragraph 1 of this Article, expires earlier than in one calendar year, the mentioned limitation period shall be extended in the part of charge and (or) reconsideration of the charged amount of taxes and other obligatory payments to the budget for another calendar year.

6. With respect to taxes and other obligatory payments to the budget, fines which shall be set off and (or) refunded by tax bodies in the order, established by this Code the limitation period for conducting the set-off and (or) refund, shall be five years after expiry of the tax period, except for the cases, established by Article 548 of this Code.

7. In case of expiry of the limitation periods of the tax obligation and request in the period of a taxpayer's (a tax agent's) appeal in the order, established by the legislation of the Republic of Kazakhstan, against the results of a tax audit and (or) a decision of a higher body, made upon the results of considering a complaint against the notification, as well as against an action (inaction) of tax service officials, the limitation period shall be extended in the part of appeal until the implementation of a decision, made upon the results of the application (complaint) consideration.

8. In case of expiry of the limitation periods of tax obligation and request in the period of consideration of a nonresident's tax application for refund of the income-tax from the budget and a conditional bank deposit on the basis of an international agreement, or a nonresident's appeal in the order, established by the legislation of the Republic of Kazakhstan, against a decision of a tax body, rendered upon the results of consideration of the tax application for reimbursement of the income-tax from the budget and a conditional bank deposit on the basis of an international agreement, or a nonresident's appeal against a decision of an authorized body, rendered upon the results of consideration of the nonresident's complaint on the mentioned in this paragraph decision of a tax body, the limitation period shall be extended until the implementation of a decision, rendered upon the results of the application (complaint) consideration.

9. In case of expiry of the limitation periods of tax obligation and request in the period of fulfillment of the mutual agreement procedure by an authorized body in accordance with Article 226 of this Code, the limitation period shall be extended until the implementation of a decision of an authorized body and (or) a competent body of a foreign state, accepted upon the results of the mutual agreement procedure.

**Footnote. Article 46 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

## **Chapter 6. CHANGE OF DEADLINES OF TAX OBLIGATION FOR PAYMENT OF TAXES AND (OR) FINES. THE GROUNDS FOR TERMINATION OF THE TAX OBLIGATION**

**Footnote. The title of Chapter 6 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).**

### **Article 47. Basic provisions**

1. Change in deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines shall be recognized as the deferral of the deadline, established by this Code for payment of taxes (except for the taxes, withheld at the source of payment, excise and the value-added tax on the imported goods) and (or) fines on the basis of a taxpayer's application for a later date, but not longer than twelve calendar months.

The application for change in deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines shall contain the reasons for the deferral of payment of taxes and (or) fines.

2. The right to fulfill the tax obligation under the changed deadlines shall not be reassigned.



3. Change in deadlines for fulfillment of the tax obligation for payment of taxes shall not release a taxpayer from payment of fines for untimely payment of taxes in accordance with Article 610 of this Code.

4. Change in deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines shall be performed, unless otherwise provided by legislative acts of the Republic of Kazakhstan, under the pledge of a property of a taxpayer and (or) a third person, and (or) under the guarantee of a bank in the order, established by this Chapter.

**Footnote. Article 47 as amended by the Law of Republic of Kazakhstan dated 16.11.2009 No. 200-IV (the order of enforcement see Article 2)**

**Article 48. The body, authorized to make a decision on change of the deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines**

**Footnote. The title as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (the order of enforcement see Article 2).**

1. Decision on change of deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines, payable to the budget and distributed among the republican and local budgets, shall be approved by an authorized body unless otherwise provided by legislative acts of the Republic of Kazakhstan.

2. Decision on change of deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines, fully payable to local budgets, shall be accepted by a tax body at the location of a taxpayer's registration.

**Footnote. Article 48 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (the order of enforcement see Article 2).**

**Article 49. The order of changing of deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines under the bank's guarantee**

**Footnote. The title as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (the order of enforcement see Article 2).**

1. Application on change of deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines under the bank's guarantee, shall be submitted by a taxpayer to a tax service body, authorized to make the decision on change of deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines, no later than ten calendar days from the date of conclusion of the bank guarantee contract. The application shall be attached with the bank guarantee contract, concluded between the bank - guarantor and a taxpayer, and the bank guarantee.

2. The bank guarantee must be irrevocable. The content of the bank guarantee must meet the requirements, established by the legislation of the Republic of Kazakhstan.



3. Not later than fifteen calendar days from the date of receipt of a taxpayer's application, a tax body shall make one of the following decisions, which shall be enforced from the date of signing:

1) on change of deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines with the attached schedule, coordinated with a taxpayer on fulfillment of the tax obligation, which establishes deadlines for payment of taxes and (or) fines and is an integral part of this decision;

2) on refusal to change the deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines.

4. The decision to change deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines shall indicate an amount of a tax and (or) fines, for which there was a change in payment deadlines, last name, name, patronymic (if there is one) or name of a taxpayer, identity number and validity of the decision.

5. Decision to refuse to change deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines shall be made in case of a taxpayer's non-compliance with this Chapter.

**Footnote. Article 49 as amended by the Law of the Republic of Kazakhstan No. 200-IV (the order of enforcement see Article 2).**

**Article 50. The order of changing the deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines under the pledge of property**

**Footnote. The title as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (the order of enforcement see Article 2).**

1. An application on change of deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines under the pledge of property of a taxpayer and (or) a third person shall be submitted by a taxpayer to a tax body, authorized to make the decision on change of deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines, no later than ten calendar days from the date of conclusion of the pledge agreement.

2. No later than fifteen calendar days from the date of receipt of a taxpayer's application, a tax service body shall make one of the following decisions which shall be enforced from the date of its signing:

1) on change of deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines with the attached schedule, coordinated with a taxpayer on fulfillment of the tax obligation, which establishes deadlines for payment of taxes and (or) fines and is an integral part of this decision;

2) on refusal to change deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines.

3. The decision to change the deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines shall indicate a and amount of a tax and (or) fines, for which there was a change in payment deadlines, last name, name, patronymic (if there is one) or name of a taxpayer, identity number and validity of the decision.

4. Decision to refuse to change deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines shall be approved in case of a taxpayer's incompliance with this Chapter.

**Footnote. Article 50 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (the order of enforcement see Article 2).**

#### **Article 51. The order of conclusion of an agreement for pledge of property**

1. The agreement for pledge of property shall be concluded between a taxpayer and (or) a third person and a tax body at the location of a taxpayer's registration, within fifteen calendar days from the date of receipt of a taxpayer's written application for conclusion of the agreement for pledge of property with attachment of the report of an appraiser on appraisal of the market value of the property, put in pledge.

The report of an appraiser on appraisal of the market value of the property, put into pledge, shall be composed no earlier than fifteen days from the date of submission of a taxpayer's written application for conclusion of the agreement for pledge of property.

2. The agreement for pledge of property shall be concluded in case of observance of the following conditions:

1) the content of the pledge agreement shall correspond with the standards, established by the legislation of the Republic of Kazakhstan;

2) the property, which is put into pledge, shall be liquid, insured against loss or damage, and its market value shall not be less than the amount of taxes and fines, payable to the budget. Shall not be subjected to pledge:

the objects of life support;

electrical, thermal and other forms of energy;

the distrained property;

the property, on which the restrictions are imposed by the public authorities;

the property, alienated to the third parties;

perishable raw materials and food;

the property rights;

3) repawning of property, put into pledge, shall not be allowed;

4) in cases when the legislative acts of the Republic of Kazakhstan provide for obligatory state registration of the agreement for pledge of property, a taxpayer shall be obliged, after conclusion of the pledge agreement, to provide its registration in the appropriate register body and shall immediately present a document, confirming the registration of the pledge agreement to a tax service body, which makes the decision to

change the deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines.

Footnote. Article 51 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (the order of enforcement see Article 2); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

**Article 52. Expiration of the decision to change the deadlines for fulfillment of a tax obligation for payment of taxes and (or) fines**

Footnote. The title as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (the order of enforcement see Article 2).

1. Operation of the decision to change the deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines shall be terminated after expiry of the duration of the period, established in it.

2. Operation of the decision to change the deadlines for fulfillment of the tax obligation for payment of taxes and (or) fines shall be terminated ahead of schedule in case if the taxpayer pays all amounts of taxes and (or) fines before expiry of the duration period, established by the decision or in case if the taxpayer violates the conditions of the schedule of fulfillment of the tax obligation for payment of taxes and (or) fines.

Footnote. Article 52 as amended by the Law of Republic of Kazakhstan dated 16.11.2009 No. 200-IV (the order of enforcement see Article 2)

**Article 53. The order for foreclosure and realization of a taxpayer's pledged property, and of the request to fulfill the bank guarantee**

1. In case if the schedule of fulfillment of the tax obligation, secured by the pledge of property of a taxpayer and (or) a third person and (or) the bank guarantee, was violated, a tax body shall foreclose property of a taxpayer and (or) a third person, or shall request to fulfill the bank guarantee.

2. Realization of property, put into pledge by a taxpayer and (or) a third person, shall be performed in a compulsory manner and out of the court in accordance with the civil legislation of the Republic of Kazakhstan.

**Article 54. Termination of the tax obligation**

1. The tax obligation of an individual shall be terminated:

1) with death;

2) with declaration of his/her death on the basis of the implemented court decision.

2. The tax obligation of an individual entrepreneur shall be terminated after termination of his/her activity in the order, established by the legislation of the Republic of Kazakhstan.

3. The tax obligation of a legal entity shall be terminated:

- 1) after its liquidation;
- 2) after its reorganization via accession (towards the accepted legal entity), merger and separation.

## **2. SPECIAL PART**

### **SECTION 3. BASIC PROVISIONS**

#### **Article 55.s of taxes and other obligatory payments to the budget**

1. In the Republic of Kazakhstan, there are the following:

1) taxes:

a corporate income tax;

an individual income tax;

a value-added tax;

the excise taxes;

a rental tax for export;

the special payments and taxes of subsoil users;

a social tax;

a vehicle tax;

a land tax;

a property tax;

a tax on gambling industry;

the fixed tax;

a single land tax;

2) other obligatory payments to the budget:

the state duty;

the charges:

the registration charges;

a toll for vehicles running in the territory of the Republic of Kazakhstan;

an auction charge;

a license charge for the right to perform certain activities;

a charge for a permission to use radio spectrum by television and radio broadcasting organizations;

the fee:

for use of land;

for use of surface water resources;

for emissions into the environment;  
for use of fauna;  
for use of forest;  
for use of especially protected natural areas;  
for use of radio spectrum;  
for provision of intercity and (or) international telephone and cellular communications;  
for use of navigable waterways;  
for placement of the outer (visual) advertisement.

1-1. In the purposes of applying the international agreements, the value-added tax and excises shall be recognized as the indirect taxes.

2. The amounts of taxes, other obligatory payments to the budget shall be transferred to the appropriate budgets in the order, established by the Budget Code of the Republic of Kazakhstan and by the Law on the Republican Budget.

**Footnote. Article 55 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).**

**Note of the RCLI!**

**In accordance with the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV the provisions of Chapter 7 shall not be applied to...**

## **Chapter 7. TAX ACCOUNTING**

### **Article 56. Tax accounting and reporting documentation**

1. Tax accounting - is the process of a taxpayer's (a tax agent's) keeping of accounting documentation in accordance with the requirements of this Code for purposes of generalization and systematization of information about the taxation objects, and (or) objects, related to taxation, as well as the calculation of taxes and other obligatory payments to the budget and composition of tax reporting.

Consolidated tax accounting - is the tax accounting, performed by authorized representatives of the participants of an agreement on joint activity on the consolidated activity, as well as on the share of each participant of the agreement on joint activity.

2. Tax accounting is based on accounting data. The order of keeping accounting documentation shall be established by the legislation of the Republic of Kazakhstan on accounting and financial reporting.

3. A taxpayer (a tax agent), personally or through an authorized representative of participants of an agreement on joint activity, responsible for keeping tax accounting, shall organize tax accounting and determine forms of generalization and systematization of information in tax purposes in the form of tax registers in the way, in order to provide:

1) formation of full and reliable information on the order of accounting for purposes of taxation of operations, performed by a taxpayer (a tax agent) during a tax period;

2) interpretation of every line of forms of tax accounting;

3) reliable composition of a tax accounting;

4) presentation of information to tax service bodies for tax audit.

4. A taxpayer (a tax agent) shall independently develop and approve the tax accounting policy unless otherwise provided in this paragraph.

Taxpayers, who apply special tax regime for subjects of small business, special tax regime for peasants and farmers for the activity, which these special orders shall apply to, shall approve the tax accounting policy, developed independently in accordance with the form, established by the Government of the Republic of Kazakhstan.

5. Tax accounting policy - is the document, accepted by a taxpayer (a tax agent), establishing the order of keeping the tax accounting with observance of the requirements of this Code.

The tax accounting policy can be included in the form of separate part in the tax policy, developed in accordance with international standards of financial reporting and with requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting.

6. The accounting documentation shall include:

1) an accounting documentation - for persons who are entrusted with its keeping by the legislative act on accounting and financial reporting.

2) the tax forms;

3) a tax accounting policy;

4) other documents which are the basis for determination of taxation objects and (or) objects, related to taxation, and for calculation of the tax obligation.

**Footnote. Article 56 as amended by the Laws of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012).**

## **Article 57. Regulations of the tax accounting**

1. A taxpayer (a tax agent) shall keep the tax accounting in tenge under the method of calculation in the order and in accordance with conditions, established by this Code.

2. Method of calculation - is a method of accounting, according to which regardless of time of payment, the income and expenses are calculated from the date of execution of works, provision of services, shipping of goods in order to realize them and record the property.

3. A taxpayer (a tax agent) shall determine taxation objects and (or) objects, related to taxation and calculate taxes and other obligatory payments to the budget on the basis of a tax accounting for a tax period.

4. Unless otherwise is provided by this Code, accounting of the exchange rate differences for tax purposes shall be performed in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting with application of the market rate of exchange.

5. Accounting for inventories for tax purposes shall be performed in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting unless otherwise is provided by this Code.

6. Operation of a barter agreement, transfer of a subject of mortgage to a mortgagee in inobservance of the obligation, secured by the mortgage for tax purposes, shall be considered as realization of goods, execution of works, and provision of services.

**Footnote. Article 57 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 58. Regulations on the separate tax accounting**

1. A taxpayer, who performs theses of activities, for which there are various tax conditions, provided for by this Code, shall be obliged to keep the separate accounting of taxation objects and (or) objects, related to taxation for purposes of calculation of the tax obligations for theses of activities.

2. A subsoil user shall be obliged to keep separate tax accounting of taxation objects and (or) objects, related to taxation in order to calculate the tax obligations for contract activity separately from noncontract activity in the order, provided for by Article 310 of this Code.

3. Operations with derivative financial instruments shall not be considered as operations for subsoil use (contract activity).

4. In case, provided by paragraph 4 of Article 80 of this Code, an authorized representative of participants of a contract on joint activity shall be obliged to keep the separate tax accounting of taxation objects and (or) objects, related to taxation for joint or other activity.

5. An entrusted administrator shall be obliged to keep the separate tax accounting of taxation objects and (or) objects, related to taxation for the activity of an entrusted



administration, which is performed in the interests of a founder of the entrusted administration under the agreement on entrusted administration of property or beneficiary in other cases of entrusted administration, and other activity.

6. The separate tax accounting shall be kept by a taxpayer on the basis of accounting documentation with observance of conditions, established by this Code.

A taxpayer cannot merge taxation objects and (or) objects, related to taxation for purposes of calculation of the tax obligations for these of activities, for which there are various tax conditions, established by this Code.

7. A taxpayer shall personally establish the order of keeping the separate tax accounting in a tax accounting policy, including a list of total income and expenses between these of activities, for which there are various tax conditions, established by this Code.

At that, the total income and expenses refer to income and expenses of a tax reporting period, including income and expenses of the general fixed assets, which do not have direct cause-effect relation with implementation of a certain of activity and cannot be fully attributed to any of activity, for which there are various tax conditions, established by this Code.

8. In case if the tax accounting policy does not have established order of distribution of total income and expenses, for which there are various tax conditions, established by this Code, the tax service bodies shall perform distribution of these income and expenses during a tax audit in the order, established by sub-paragraph 1) of Article 310 of this Code.

#### **Article 59. Requirements for composition and keeping of accounting documentation**

1. Accounting documentation shall be composed in paper and (or) electronic format and shall be presented to tax service bodies during implementation of a tax audit.

2. Accounting documentation shall be made by a taxpayer (a tax agent) in Kazakh and (or) Russian languages.

If there are certain documents, made in foreign languages, a tax service body shall have the right to require their translation into Kazakh or Russian languages.

3. When making an accounting documentation in electronic form, a taxpayer (a tax agent) shall be obliged to present copies of this documentation in paper format during a tax audit at the request of tax service officials.

4. Accounting documentation shall be kept until expiry of the limitation period, established by Article 46 of this Code for each of tax and other obligatory payment, this documentation is related to, from a tax period, following the period when accounting documentation is composed, except for the cases, provided for by paragraphs 5 and 6 of this Article.



5. Accounting documentation, confirming the cost of the fixed assets, including those, transferred (received) on financial leasing, shall be kept until expiry of the limitation period, specified by Article 46 of this Code, which begins from the expiry date of the last tax period, in which replacement or absolute disbursement of these assets occurred.

6. Accounting documentation, confirming the cost of assets, which are not subjected to depreciation in purpose of taxation, shall be kept until expiry of the limitation period, established by article 46 of this Code, which begins with expiry of the last tax period, in which the replacement or full use of these assets took place.

7. During reorganization of a taxpayer (a tax agent) - a legal entity, the obligation for keeping of accounting documentation of a reorganized person shall be entrusted to his/her legal successor (legal successors).

#### **Article 60. Requirements for tax accounting policy**

1. Tax reporting policy shall have the following regulations:

1) forms and order of composition of tax registers, developed by a taxpayer (a tax agent) personally;

2) a list of ongoing activities according to the generalification of Economic Activities, established by a standardization body, authorized by the Government;

3) the names of officials, responsible for observance of the tax accounting policy.

4) the order of keeping of the separate tax accounting in case of implementation of these activities, for which there are various tax conditions, established by this Code, with observance of the rules, specified by Article 58 of this Code;

5) the order of keeping of the separate tax accounting in case of conducting the subsurface use operations.

6) the methods, chosen by a taxpayer for verifying expenses as a deduction for purpose of calculation of the corporate income tax, and the set-off of the value-added tax, provided for by this Code;

7) the policy of the hedged risks' determination, hedged articles, and hedging instruments, used in respect to them, a method of assessment of hedge effectiveness in the case of hedging operations;

8) a policy of income accounting on the Islamic securities in case of operations with Islamic securities;

9) the standards of depreciation on each subgroup, group of the fixed assets, including the provisions of paragraph 2 of Article 120 of this Code;

10) in case of an issue, in accordance with this Code, of invoices by structural units of a nonresident legal entity, which is a payer of the value-added tax, - in the context of structural units, issuing invoices:

the code of each of these structural units, used to numerate invoices for identification of these structural units;

a maximal number of figures, used to numerate invoices during their issuing.

2. Tax accounting policy on joint activity shall be developed and approved by the participants of an agreement on joint activity in the order and on the grounds, established by this Code.

2-1. When implementing the activity on subsurface use as a part of a general partnership (consortium) under a production sharing agreement (contract), the tax accounting policy together with requirements of paragraph 1 of this Article shall contain, in accordance with paragraph 3 of Article 308-1 of this Code, the method of fulfillment of the tax obligation for each of taxes and other obligatory payments, provided for by the legislation of the Republic of Kazakhstan, chosen by the participants of a general partnership and (or) an operator.

3. The operation of provisions, established in a tax accounting policy, provided for by sub-paragraphs 1), 4) - 6) of paragraph 1 of this Article, shall be applied to a calendar year.

4. In implementation of these activities, which were not mentioned earlier in a tax accounting policy, a taxpayer (a tax agent) shall be obliged to make appropriate adjustments and (or) additions to the tax accounting policy.

5. Adjustment and (or) addition of a tax accounting policy shall be performed by a taxpayer (a tax agent) in one of the following ways:

1) by approval of a tax accounting policy or a new accounting policy part, developed in accordance with international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting;

2) by making adjustments and (or) additions to a current tax accounting policy or to a part of current tax accounting policy, developed in accordance with international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting.

6. It is prohibited for a taxpayer (a tax agent) to make adjustments and (or) additions to a tax accounting policy:

1) of the tax period, which is under inspection - during the period of integrated and thematic inspections;

2) of the appealed tax period - during the time of bringing and considering a complaint on a notification of the results of a tax audit and (or) a decision of a higher tax body, made upon the results of consideration of the complaint for the notification, taking into account the restored period for bringing a complaint.

**Footnote. Article 60 as amended by the Laws of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 30.12.2009 No.**

234-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

## **Chapter 8. TAX FORMS**

### **Article 61. Tax forms and the order of their composition**

1. Tax forms shall include a tax reporting, a tax application and tax registers.
2. Tax forms shall be composed by a taxpayer (a tax agent) in paper and (or) electronic formats in Kazakh and (or) Russian languages.
3. Tax forms, made in paper format, shall be signed by a taxpayer (a tax agent) or his/her representative, and sealed with the stamp of a taxpayer (a tax agent) or his/her representative, who has the stamp with their names in the cases, established by the legislation of the Republic of Kazakhstan.

Tax forms, composed in an electronic format, except for the tax registers, shall be sealed with the electronic signature of a taxpayer (a tax agent).

### **Article 62. The shelf life of tax forms**

1. Tax forms shall be kept by a taxpayer (a tax agent) during the limitation period, established by Article 46 of this Code.
2. In reorganization of a taxpayer, a tax agent - a legal entity, the obligation for keeping tax forms for the reorganized person shall be entrusted to its legal successor (legal successors).

### **§1. Tax reporting**

### **Article 63. Basic provisions**

1. Tax reporting - is a document of a taxpayer (a tax agent), submitted to a tax service body in accordance with the order, established by this Code, which contains information about a taxpayer, taxation objects and (or) objects, related to taxation, and calculation of the tax obligations, obligatory pension contributions and social contributions.

#### **Note of the RCL!**

This wording of paragraph 2 shall operate until 01.01.2013 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (for the suspended version see an archived version No. 33 of the Tax Code of the Republic of Kazakhstan)

2. Tax reporting shall include:

1) tax declarations, calculations, attachments to them, which are subjected to composition and submission by a taxpayer (a tax agent), on the of taxes, other obligatory payments to the budget, obligatory pension contributions and social contributions, presented by an importer of the declaration on indirect taxes for the imported goods and an application on import of goods and payment of indirect taxes;

2) reporting on monitoring, presented by large taxpayers, subjected to monitoring;

3) register of lease (use) agreements, presented by legal entities and individual entrepreneurs, who rent the commercial objects, trade spaces on retail markets to persons, who perform payments to the budget on the one-off coupon basis.

Forms of tax reporting and regulations of their composition shall be approved by the Government of the Republic of Kazakhstan, taking into account Articles 65 - 67 of this Code, and Article 11-2 of the Law of the Republic of Kazakhstan "On Incorporation of the Code of the Republic of Kazakhstan "On Taxes And Other Obligatory Payments Into The Budget" (The Tax Code)".

**Note of the RCL!**

**This wording of paragraph 3 shall operate until 01.01.2013 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (for the suspended version see an archived version No. 33 of the Tax Code of the Republic of Kazakhstan)**

3. Tax reporting, except for the declaration for indirect taxes for imported goods, the application on import of goods and payment of indirect taxes, shall be subdivided into the followings:

1) the primary reporting - is the tax reporting, presented by a person for a tax period when registration of a taxpayer took place and (or) the tax obligation for certain of taxes and other obligatory payments to the budget, and the obligation for calculation, withholding and transfer of obligatory pension contributions and calculation and payment of social contributions, on which this person is a taxpayer (a tax agent), occurred for the first time, on presentation of the register of lease (use) agreement, provided for by sub-paragraph 3) of paragraph 2 of this Article;

2) the regular reporting - is the tax reporting, presented by a person for tax periods, following the tax period, when registration of a taxpayer (a tax agent) took place and (or) the tax obligation for certain of taxes and other obligatory payments to the budget, and the obligation for calculation, withholding and transfer of obligatory pension contributions and calculation and payment of social contributions, on which this person is a taxpayer (a tax agent), occurred for the first time, on presentation of the register of lease (use) agreements, specified by sub-paragraph 3) of paragraph 2 of this Article, and upon the results of the tax period - in case of the replacement of taxation objects during the tax period;

3) additional reporting - is the tax reporting, presented by a person in making adjustments and (or) additions to the earlier presented tax reporting for the tax period, to which these adjustments and (or) additions on the of taxes and other obligatory payments to the budget, obligatory pension contributions and social contributions, on which this person is a taxpayer (a tax agent), are related to, and on information, reflected in the register of lease (use) agreements, provided by sub-paragraph 3) of paragraph 2 of this Article;

4) additional reporting on the notification - is the tax reporting, presented by a person for making adjustments and (or) additions to the earlier presented tax reporting for the tax period, when a tax body revealed violations upon the results of the in-house audit for the of taxes and other obligatory payments to the budget, for obligatory pension contributions and social contributions, on which this person is a taxpayer (a tax agent), and on information, reflected in the register of lease (use) agreements, provided for by sub-paragraph 3) of paragraph 2 of this Article;

5) liquidation reporting - is the tax reporting, presented by a person on liquidation or reorganization of a taxpayer, for the of taxes and other obligatory payments to the budget, for obligatory pension contributions and social contributions, on which this person is a taxpayer (a tax agent), on removal from the register for the value-added tax, and on information, reflected in the register of lease (use) agreements, provided for by sub-paragraph 3) of paragraph 2 of this Article;

**Footnote. Article 63 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

#### **Article 64. Specifics of making the tax reporting**

1. In the cases, specified by this Code, taxpayers, performing the of activities, for which various tax conditions are established, shall compose the tax reporting on each of activity.

The taxpayers, who, during a calendar year, switched from the special tax regime for legal entities-producers of agricultural products and rural consumer cooperatives to the generally accepted order, shall compose the tax reporting separately for each period of implementation in the mentioned calendar year for:

the special tax regime;

the generally accepted order.

2. Subsoil users, who are obliged to keep the separate tax accounting, provided by this Code, shall compose the tax reporting in the order, specified by this Code.

3. If a taxpayer is related to the groups of taxpayers, for whom there are various tax forms, established by the Government of the Republic of Kazakhstan, this taxpayer

shall make the tax forms, established for each group of taxpayers, which he/she is related to.

Footnote. Article 64 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012).

#### **Article 65. Specifics of establishment of the tax reporting on the corporate income tax**

1. The Government of the Republic of Kazakhstan approves the forms of declaration for corporate income tax with attachments to this declaration separately for each of the following groups of taxpayers:

- 1) The insurance and reinsurance companies, mutual insurance companies;
- 2) The non-commercial organizations;
- 3) The organizations, working in social area;
- 4) The subsoil users, working under a production sharing agreement (a contract) or a subsoil use contract, approved by the President of the Republic of Kazakhstan, the provisions of which provide stability of the tax regime;

4-1) subsoil users, working under the subsoil use, except for those:  
who conduct mining operations for widespread minerals, groundwater and therapeutic mud;

who are mentioned in sub-paragraph 4) of this paragraph;

5) other payers of the corporate income tax, who are not mentioned in sub-paragraphs 1) - 4) of this paragraph, for whom the obligation for composition and presentation of the declaration is established.

2. The declaration on the corporate income tax is designed for taxpayers of the corporate income tax to declare income, included in the total annual income, expenses, which are attributed to deduction, their correction, taxable income (loss), income and expenses, reducing the taxable income, postponed losses, calculated amount of tax for a tax period and the amount of taxes, reducing amount of the calculated tax for a tax period.

Attachments to the declaration for the corporate income tax are designed for the detailed reflection of the information on calculation of the tax obligation, used by the tax service bodies for the purposes of the tax audit.

The forms of attachments to the declaration for the corporate income tax may contain the following information:

- 1) on income (losses) from the value increase;
- 2) on income and expenses on doubtful obligations, doubtful requirements, written-off of obligations and requirements, including in the context of creditors and debtors;

- 3) on income and expenses of remunerations. The form of this attachment on remunerations may be established in the context of receivers of remunerations;
- 4) on income and expenses from realization of goods, execution of works, provision of services. The form of this attachment may be established in the context of providers for persons who are not the payers of the value-added tax;
- 5) on income (losses) from derivative financial instruments, except for the swap. The form of the attachment may be established in the context of contractors;
- 6) on management and general administrative expenses of a nonresident;
- 7) on investment tax preferences;
- 8) on income and expenses, reducing the taxable income. The form of this attachment may be established in the context of receivers of gratuitously transferred property, sponsorship;
- 9) on depreciation, repair costs and other deductions from the fixed assets;
- 10) on income from foreign sources, on amounts of profit or a part of profit of the companies, registered or located in the countries with preferential taxation, and on amount of paid foreign tax and the set-off. The form of this attachment may be established in the context of persons, from whom these profits are received;
- 11) on calculation of the tax obligation for the received standard tax benefits;
- 12) on income, which is subjected to exemption from taxation in accordance with the international agreements;
- 13) on verification of a report on income and expenses with a declaration on the corporate income tax;
- 14) on income (losses) from swap. The form of this attachment may be established in the context of contractors;
- 15) on taxation objects and (or) objects, related to taxation, the tax obligation in the context of founders of an entrusted administration of property and (or) beneficiary in other cases of an entrusted administration;
- 16) on management and general administrative expenses of a resident, which are deductible by permanent establishments of a resident, located outside the Republic of Kazakhstan;
- 17) on the taxation objects and (or) objects, related to taxation, on calculation of the corporate income tax for these activities, in respect of which there is a separate accounting, established in accordance with Article 58 and (or) paragraph 4 of Article 448 of this Code;
- 18) the information, which shall be reflected in an annual financial reporting of a payer of the corporate income tax, composed in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting.

3. For certain categories of taxpayers, in addition to the information, mentioned in paragraph 2 of this Article, the forms of attachments to a declaration on the corporate income tax may contain the following information:

1) for insurance, reinsurance companies, mutual insurance companies - on income from reduction of the size of created provisions (reserves) and expenses for creation of provisions (reserves);

2) for noncommercial organizations:

on income and expenses for gratuitously received (transferred) property, for entrance fees, for membership fees. The form of this attachment may be established in the contexts of persons who transferred and received gratuitously property, and in the context of persons who received and transferred entrance fees, membership fees;

on expenses for maintenance of noncommercial organizations;

on expenses for organizing and holding events;

3) for subsurface users, working under the contracts on subsoil use or the production sharing contracts:

for contributions to the Fund for Liquidation of Mining Consequences;

for distribution of net income and net income, aimed at increase of the fixed capital of a resident legal entity with saving a share of participation of each founder, participant;

for taxation objects and (or) objects, related to taxation, for calculation of the corporate income tax separately for each contract on subsoil use;

for specifics of calculation of taxation objects and (or) objects, related to taxation, amounts of the tax for the contracts on subsurface use, provided for by Article 308-1 of this Code;

on expenses for geological studies, exploration and preparatory works for extraction of natural resources and other costs of subsurface users;

4) for the banks and the organizations, performing certain of banking operations on the basis of the license, and the persons, who perform such operations without the license within the powers, established by the legislative acts of the Republic of Kazakhstan:

for income from the realization of goods, execution of works, provision of services in the context of the sale of goods, works, services;

for income from reducing the size of the created provisions (reserves) and expenses for creation of provisions (reserves) (for the persons, who have the right for deduction in accordance with Article 106 of this Code);

for the contributions to guarantee the deposits of individuals.

4. The government of the Republic of Kazakhstan approves the following forms of calculation of the amounts of the corporate income tax:



1) calculation of the advance amounts on the corporate income tax, payable for the period before submission of the declaration;

2) calculation of the amount of advances on the corporate income tax, payable for the period after submission of the declaration;

3) calculation of the corporate income tax, withheld from the source of payment from the income of a resident;

4) calculation of the corporate income tax, withheld from the source of payment from the income of a nonresident.

5. The calculations, listed in sub-paragraphs 1), 2) of paragraph 4 of this Article, shall be designed for calculation of the amounts of advances on the corporate income tax for the current tax period and shall be presented by the taxpayers, for whom there is the obligation for calculation and payment of the amounts of advances on the corporate income tax, established by this Code.

6. The calculations, listed in sub-paragraphs 3), 4) of paragraph 4 of this Article, shall be presented by tax agents for providing information of calculation of the tax obligation, used for the tax audit.

The form of an attachment to the calculation for the corporate income tax, which is withheld at the source of payment from the income of a resident, may contain, in the context of receivers of income, the following information on:

- 1) the amount of the payable income;
- 2) the amount of the paid income;
- 3) the rate of the corporate income tax;
- 4) the amount of the tax, withheld at the source of payment;
- 5) the amount of the factually paid tax.

The form of an attachment to the calculation for the corporate income tax, withheld at the source of payment from the income of a nonresident, may contain, in the context of receivers of income, the following information on:

- 1) the general identity information of a taxpayer;
- 2) taxation objects, including those, exempted from taxation in accordance with international agreement;
- 3) the tax rates;
- 4) the application of international agreements;
- 5) the period of activity in the Republic of Kazakhstan;
- 6) the amount of the calculated tax in accordance with this Code or an international agreement.

**Footnote. Article 65 as amended by the Laws of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced from 01.01.2012); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2012); dated 30.12.2009 No. 234-IV (shall be**

enforced from 01.01.2012); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

## **Article 66. Specifics of establishment of the tax accounting for the value-added tax**

### **Note of the RCLI!**

This wording of Article 66 operates up to 01.01.2016 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (for the suspended version see an archived version No. 7 of the Tax Code of the Republic of Kazakhstan).

1. The declaration for the value added tax shall be designed for calculation of the amount of the value-added tax by payers of the value-added tax and for reflecting information on:

- 1) the amount of taxable and tax-free turnover;
- 2) the amount of taxable import;
- 3) the amount of the purchase of goods, execution of works, and provision of services in the Republic of Kazakhstan;
- 4) the amount of the value-added tax which shall be set off;
- 5) the chosen method of attributing the amount of the value-added tax to the set off and the results of its application;
- 6) the excess of the amount of the value-added tax, which shall be set off over the amount of the charged value-added tax, including at the end of a tax period;
- 7) the calculation of the amount of the value-added tax.

The declaration for the value-added tax may contain a request to refund an excess of the amount of the value-added tax, which shall be set off, over the amount of the charged value-added tax.

At that, the request to refund an excess of the amount of the value-added tax, which shall be set off, over the amount of the charged value-added tax, may be reflected in the primary, regular and (or) liquidation declarations for the value-added tax.

2. Attachments to the declaration for the value-added tax shall be designed for the detailed reflection of the information on calculation of the tax obligation, used by tax service bodies for the tax audit.

The forms of the attachment to the value-added tax may contain the following information on:

- 1) sales turnover, taxable at zero rate;
- 2) sales turnover, exempted from the value added tax;
- 3) import of goods, for which the deadline for payment of the value-added tax was changed;
- 4) import of goods, the value-added tax for which is paid by the method of the set-off;

5) the works and services, purchased from a nonresident, and the amount of the value-added tax, payable for this nonresident;

6) correction of the size of the taxable turnover and the amount of value-added tax, attributed to the set-off;

7) invoices for purchased goods, executed works, provided services and for the realized goods, executed works, provided services in the context of providers and buyers;

8) documents on the output of goods from the state material reserve, written out by an authorized state body for State Material Reserves, in the context of customers;

9) amounts of the value-added tax, presented for refund.

3. Number of cells to specify the invoice shall not be limited in the presentation in an electronic format of:

1) the register of invoices (documents for issuance of the goods from the state material reserve) for purchased goods, works, services during the reporting tax period;

2) the register of invoices for realized goods, works, services during the reporting tax period.

#### **Article 67. Specifics of establishment of the tax accounting for the individual income tax and the social tax**

1. The Government of the Republic of Kazakhstan approves the following forms of the declaration for the individual income tax and the social tax with attachments to this declaration:

1) The declaration for the individual income tax and the social tax on the citizens of the Republic of Kazakhstan for the following groups of taxpayers, who are the tax agents of:

the legal entities, which are residents of the Republic of Kazakhstan, except for the legal entities, applying a special tax regime for subjects of small business on the basis of the simplified declaration;

the nonresident legal entities, working in the Republic of Kazakhstan through a permanent establishment;

individual entrepreneurs, except for those, applying the special tax regimes for peasant and farmers, for subjects of small business on the basis of the simplified declaration;

the private notaries;

the lawyers;

the private enforcement agents;

2) the declaration for the individual income tax and the social tax on foreigner and stateless persons for the following groups of taxpayers, who are the tax agents of:

the legal entities-residents of the Republic of Kazakhstan, except for the legal entities, applying the special tax regime for subjects of small business on the basis of the simplified declaration;

the nonresident legal entities, working in the Republic of Kazakhstan through a permanent establishment;

the individual entrepreneurs, except for those, applying the special tax regimes for peasants and farmers, for subjects of small business on the basis of the simplified declaration;

3) the declaration for the individual income tax with attachments to this declaration separately for each group of taxpayers:

the individual entrepreneurs, except for those, applying the special tax regimes for peasants and farmers, for subjects of small business on the basis of the patent or the simplified declaration, the individuals, who are not the citizens of the Republic of Kazakhstan;

the individuals, who are mentioned in paragraph 2 of Article 185 of this Code;

the individuals, who received income, which is not taxable at the source payment (except individual entrepreneurs), the taxpayers, who received income outside the Republic of Kazakhstan, the individuals, who have money at foreign bank accounts, located outside the Republic of Kazakhstan.

2. The declaration for the individual income tax and the social tax on the citizens of the Republic of Kazakhstan for tax agents shall be designed for reflection of information on:

1) The income of the individuals, from whom the individual income tax, obligatory pension contributions, the social tax, and social contributions are calculated and withheld.

2) The amount of an excess in the charged social security benefits over the amount of contributions to the State Social Insurance Fund;

3) The amounts of the social benefits for temporary disability, paid by the state bodies;

4) The amounts of the charged tax obligations, obligatory pension contributions, social contributions.

Attachments to the declaration for the individual income tax and the social tax shall be designed for detailed reflection of the information on calculation of the tax obligation, used by tax service bodies for the purposes of the tax audit.

The forms of the attachments to the declaration for the individual income tax and the social tax may contain the information on amounts of the calculated individual income tax and social tax for structural units, for the list of employees' income, taxable and nontaxable with the social tax, calculation of the social tax by taxpayers for the activity, performed under a contract on subsurface use.

The provisions of this paragraph shall also be applied to the declaration for the individual income tax and the social tax for tax agents with respect to the citizens of the Republic of Kazakhstan, presented for structural units of a legal entity.

3. The declaration for the individual income tax and the social tax on foreigners and stateless persons for tax agents shall be designed for reflecting the information on:

1) Income of foreigners and stateless persons, from whom the individual income tax, obligatory pension contributions, the social tax, and social contributions are calculated and withheld;

1-1) The amounts of excess in the charged social benefits over the charged amount of contributions to the State Social Insurance Fund;

2) The amounts of charged but not paid income of foreigners and stateless persons, which are attributed to the set off by a tax agent, from which the individual income tax is calculated;

3) The amounts of the charged and payable to the budget taxes and other obligatory payments, and obligatory pension contributions, social contributions in accordance with this Code and an international agreement.

Attachments to the declaration for the individual income tax and the social tax shall be designed for detailed reflection of the information on calculation of the tax obligation, used by tax service bodies for the purposes of the tax audit.

The forms of the attachments to the declaration for the individual income tax and the social tax may contain the information on calculation of the social tax by taxpayers for the activity, performed under each subsurface use contract, on calculation of the individual income tax from income of foreigners and stateless persons, who are the residents and nonresidents, on calculation of the individual income tax and the social tax including those for structural units.

At that, the attachments on calculation of the individual income tax from income of foreigners and stateless persons, who are the residents and nonresidents in the context of receivers of income may mention the following information on:

1) The general identity information of a taxpayer;

2) The taxation objects, including those tax-exempted in accordance with the international agreement;

3) The rates of the tax;

4) An application of foreign agreements;

5) A period of activity in the Republic of Kazakhstan;

6) The amount of the charged individual income tax and the social tax, which include those for structural units, in accordance with this Code or an international agreement;

7) The tax deductions;

The provisions of this paragraph shall also be applied to the declaration for the individual income tax and the social tax for tax agents with respect to foreigners and stateless persons, presented for structural units of a legal entity.

4. The declaration for the individual income tax for individual entrepreneurs shall be presented by individual entrepreneurs, except for those, applying the special tax regimes for peasants and farmers, for subjects of small business on the basis of the patent or the simplified declaration.

This declaration shall be designed for declaring by taxpayers:

The income, included into the total annual income;

The expenses, attributed to the set-offs;

A correction of income and the set-offs;

The taxable income (loss);

The income and expenses, reducing the taxable income;

The postponed losses, the charged amount of the tax.

Attachments to the declaration for the individual income tax shall be designed for reflection of the information on calculation of the tax obligation, used by tax service bodies for the tax audit.

The forms of the attachments to the declaration for the individual income tax may contain the following information:

1) Mentioned in sub-paragraphs 1) - 6), 8) - 10), 12) - 15) of paragraph 2 of Article 65 of this Code;

2) on the tax deductions, established by paragraph 1 of Article 166 of this Code.

5. The declaration for the individual income tax and property shall be presented by the individuals, listed in paragraph 2 of Article 185 of this Code.

This declaration shall be designed for taxpayers to declare the received income, calculated and paid amount of the individual income tax for income, which is nontaxable at the source of payment, amount of the charged individual income tax on the income, which is taxable at the source of payment.

Attachments to the declaration for the individual income tax and property shall be intended for the detailed reflection of the information on calculation of the tax obligation, presence of ownership of the property, located in the Republic of Kazakhstan and (or) outside the Republic, used by tax service bodies for the purposes of the tax audit.

The forms of the attachments to the declaration for the individual income tax and property may contain the following information on:

1) The income, taxable at the source of payment;

2) The property and other income;

3) The property which is under ownership.

6. The declaration for the individual income tax for other groups of individuals shall be presented by the individuals, who are not mentioned in paragraphs 4 and 5 of this Article, including those who received income, which is nontaxable at the source of payment (except for individual entrepreneurs), and by the individuals, who have money at foreign bank accounts, located outside the Republic of Kazakhstan.

This declaration shall be intended for declaring of income of individuals, tax deductions, and calculations of amount of the individual income tax.

Attachments to the declaration shall be designed for the detailed reflection of the information on and amounts of income, in calculation of the tax obligation, used by tax service bodies for purposes of the tax audit.

The forms of the attachments to the declaration may contain the following information on:

- 1) The property and other income;
- 2) The income of a private notary, a private enforcement agent, and a lawyer;
- 3) The income, received from sources in foreign states, including on income, received in a state with a preferential taxation, and on amounts of the paid foreign tax and the set-off of a foreign tax. The form of this attachment may be established in the context of persons from whom this income is received.
- 4) Income, subjected to tax exemption in accordance with the international agreements;
- 5) Income of the individuals, who have money at foreign bank accounts, located outside the Republic of Kazakhstan, and on presence of money on such accounts.

**Footnote. Article 67 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 68. The order of submission of the tax reporting**

1. The tax reporting shall be submitted by a taxpayer (a tax agent) to tax bodies in the order and within the period, established by the Code.

2. If a taxpayer is attributed to the group of taxpayers, for whom various forms of tax reporting are established by the Government of the Republic of Kazakhstan, this taxpayer shall be obliged to submit the tax reporting in the forms, specified for each group of taxpayers, he is related to.

3. Taxpayers (tax agent) shall have the right to submit the tax reporting, unless otherwise provided for by this Article, to the appropriate tax bodies optionally:

- 1) in person:  
for tax reporting - in a paper format;

for reporting on monitoring - in an electronic format, providing the computer processing of information;

2) (by mail) by a registered letter with a notification - in a paper format;

3) in an electronic format, providing the computer processing of information, - by means of a system of receiving and processing of tax reporting.

Provisions of sub-paragraph 2) of this paragraph shall not be applied to the reporting:

on monitoring, which is submitted by major taxpayers, subjected to monitoring;

on the value-added tax, submitted by the taxpayers, who are the payers of the value-added tax after their removal from the register for the value-added tax under a decision of a tax body in accordance with paragraph 4 of Article 571 of this Code.

The provision of sub-paragraph 3) of this paragraph shall not be applied to the reporting for the value added tax, submitted by the taxpayers, who are not payers of the value-added tax after their removal from the register for the value-added tax under a decision of a tax body in accordance with paragraph 4 of Article 571 of this Code.

4. The tax reporting shall be submitted in duplicate if it was submitted in person in a paper format. One copy of the tax reporting shall be returned to a taxpayer (a tax agent) with a mark of tax body.

5. The structure of an electronic format of the tax reporting, the software for composition and submission of the tax reporting in electronic form and update of this software shall be placed on the official web site of an authorized body on the regular basis no later than twenty working days before the deadline for submitting the tax reporting.

6. After submission of the liquidation tax reporting a taxpayer (a tax agent) shall not have the right to submit the further tax reporting to a tax body, except for the additional and (or) the additional reporting on the notification, unless otherwise provided for by this paragraph.

In case a tax payer (a tax agent) changes a decision on liquidation, reorganization by separation after the completion of the tax audit, the liquidation tax reporting submitted for the incomplete tax period shall be equated with the next tax reporting for a tax period. For the last tax periods from the date of submission of the liquidation tax reporting a taxpayer shall be obliged to submit the tax reporting to the appropriate tax bodies in the order and within the period, established by this Code.

7. If there are no any taxation objects, the tax reporting shall not be submitted, except for the tax reporting, provided by Article 149, paragraph 1 of Article 162, Articles 185, 270, 364, 437 of this Code.

The obligation for submission of the tax reporting on the value-added tax shall be applied to the taxpayers, who are registered as taxpayers of the value-added tax.



The obligation for submission of the tax reporting on excise tax shall be applied to the taxpayers, registered in tax bodies in accordance with sub-paragraphs 1), 2), 3), and 5) (except for the wholesale realization of tobacco products) of paragraph 1 of Article 574 of this Code.

8. Attachments to declarations, calculations shall not be submitted if there is no data which shall be reflected in them.

**Footnote.** Article 68 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

#### **Article 69. The order of revocation of a tax reporting**

1. Unless otherwise provided by this paragraph, a taxpayer (a tax agent) shall submit a tax application on revocation of the tax reporting, mentioned in paragraphs 2 and 3 of this Article, to a tax body at the place of registration of the taxpayer (a tax agent).

In case of revocation of a tax reporting, which is recognized as not submitted in accordance with sub-paragraph 2) of paragraph 5 of Article 584 of this Code, a taxpayer (a tax agent) shall submit a tax application on revocation of the tax reporting to a tax body at the place of submission of this reporting.

The tax reporting shall be subjected to revocation by a tax service body from the system of receiving and processing of tax reporting on the basis of the tax application of a taxpayer (a tax agent), and in the case, mentioned in the third part of paragraph 2 of this Article, taking into account all the additional forms of the tax reporting, submitted for the stated tax period.

Simultaneously with the tax application on revocation of a tax reporting, submitted on the basis of sub-paragraph 2) of paragraph 2 of this Article, a taxpayer (a tax agent) shall be obliged to submit the tax reporting in accordance with paragraph 2 of Article 68 of this Code.

Revocation of a tax reporting, submitted for a tax period, mentioned in a tax application, shall be performed by the following methods:

1) method of removal, in which an earlier submitted tax reporting shall be removed from the central system;

2) method of changing, in which the changes, declared by a taxpayer (a tax agent) shall be made in the earlier submitted tax reporting.

2. The method of removal is used for revocation of the following tax reporting:

1) the liquidation tax reporting in case of the decision, made by a taxpayer in accordance with Article 37, 38, 40 - 43 of this Code to resume the activities before the tax audit;

2) the tax reporting, submitted by a taxpayer in violation of the conditions of paragraph 2 of Article 68 of this Code;

3) the tax reporting, submitted by a taxpayer, who, in accordance with this Code, does not have the obligation to submit a tax reporting;

4) the tax reporting, which is recognized as not submitted in accordance with paragraph 5 of Article 584 of this Code.

Unless otherwise provided by this paragraph, in revocation of a tax reporting by the method of removal in the accounts of a taxpayer (a tax agent) shall be subjected, by a tax body at the place of registration, to reversal of the calculated (reduced) amounts of taxes, other obligatory payments to the budget, obligatory pension contributions and social contributions on the revoking tax reporting.

In case of revocation of the tax reporting, which is recognized as not submitted in accordance with sub-paragraph 2) of paragraph 5 of Article 584 of this Code, the reversal of the amounts, listed in the first part of this paragraph, shall be performed by a tax body at the place of submission of this reporting.

A tax body performs the revocation of a tax reporting without a tax application by the method of removal in non-fulfillment of the notification by a taxpayer (a tax agent), mentioned in paragraph 4 of this Article. The revocation shall be performed within two working days from the date of expiry of the deadline, set for fulfillment of this notification.

3. The method of changing shall be used for revocation of the tax reporting:

1) which does not specify or incorrectly specifies the code of currency;

2) which does not specify or incorrectly specifies the number and (or) the date of a contract on subsurface use;

3) which does not specify or incorrectly specifies the status of residency;

3-1) which incorrectly specifies the code of a tax body;

3-2) which incorrectly specifies a tax period;

3-3) which incorrectly specifies the of tax reporting;

4) the liquidation tax reporting in case a taxpayer makes the decision in accordance with Articles 37, 38, 40 - 43 of this Code on resumption of the activity after the tax audit.

In revocation of a tax reporting by the method of changing the personal accounts of a taxpayer (a tax agent) by a tax body at the place of registration shall be subjected to reversal of the calculated (reduced) amounts, reflected in the revoking tax reporting with further reflection in the personal account of the information on tax reporting, taking into account the declared changes and (or) additions.

4. If a taxpayer (a tax agent) does not submit a tax application on revocation of the tax reporting, mentioned in sub-paragraphs 2) - 4) of paragraph 2 of this Article, a tax body, within the established period, shall send to a taxpayer (a tax agent) the notification, provided for by sub-paragraph 9) of paragraph 2 of Article 607. The notification shall be subjected to fulfillment within the period, established by paragraph 2 of Article 608 of this Code.

5. It is prohibited for a taxpayer (a tax agent) to revoke an erroneously submitted tax reporting:

1) of a tax period, which is under inspection - in the period of complex and thematic inspections on the taxes and other obligatory payments to the budget, obligatory pension contributions and social contributions, mentioned in the instructions for implementation of the inspections;

2) of an appealed tax period - in the period of consideration of the complaint on a notification upon the results of a tax audit and (or) a decision of a higher body, made upon the results of considering the complaint on the notification, including the restored deadline for submission of the complaint.

6. Tax bodies shall be obliged within five working days from the date of submission of the tax application, mentioned in paragraph 1 of this Article, to perform the revocation of a tax reporting and send to a taxpayer (a tax agent) a notification on revocation of a tax reporting in the form, established by an authorized body.

**Footnote. Article 69 in the wording of the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); as amended by the Laws of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

## **Article 70. Making adjustments and additions to a tax reporting**

1. Making adjustments and additions to a tax reporting shall be performed by a taxpayer (a tax agent) via composing the additional tax reporting for the tax period which these adjustments and additions refer to.

2. The additional tax reporting shall specify:

1) the disparity between the amounts, mentioned in an earlier submitted tax reporting and the actual tax obligation for a tax period - upon changing the amounts in the earlier submitted tax reporting;

2) a new value - upon changing of the rest of the data in the earlier submitted tax reporting.

3. When submitting the additional and (or) the additional on the notification tax reporting, the revealed by a taxpayer (a tax agent) or a tax body upon the result of the in-house audit in accordance with Articles 586, 587 of this Code, the amounts of taxes, other obligatory payments, obligatory pension contributions and social contributions

shall be transferred to the budget without bringing the taxpayer (tax agent) to the responsibility, established by the Laws of the Republic of Kazakhstan.

4. A taxpayer (a tax agent) shall have the right to submit the additional liquidation tax reporting before the beginning of a tax audit, performed by a tax body under the tax application of the taxpayer on liquidation, reorganization by separation or termination of the activity.

5. It is prohibited for a taxpayer (a tax agent) to make adjustments and additions to the appropriate tax reporting:

1) of a tax period, which is under inspection - in the period of implementation (taking into account extension and suspension) of complex and thematic inspections on the taxes and other obligatory payments to the budget, obligatory pension contributions and social contributions, listed in the instructions for implementation of the tax audit;

2) of an appealed tax period - in the period of consideration of the complaint on the notification on the results of a tax audit and (or) a decision of a higher body, made upon the results of considering the complaint for a notification, including the restored deadline for submission of the complaint for the taxes and other obligatory payments to the budget, obligatory pension contributions and social contributions, listed in the complaint of a taxpayer (a tax agent);

3) in the part of requirements for the refund of the value-added tax.

**Footnote. Article 70 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

#### **Article 71. Extension of the deadline for submission of the tax reporting by an authorized body**

1. A major taxpayer, subjected to monitoring, shall have the right no later than ten working days from the date of expiry of the deadline for submission of the reporting on monitoring, specified in Article 624 of this Code, to submit to an authorized body the tax application on extension of the deadline for submission of this reporting.

2. An authorized body upon the results of consideration of the tax application, mentioned of paragraph 1 of this Article, shall be obliged no later than five working days after its receipt to make a decision on refusal to extend the deadline for submission of the reporting on monitoring or on extension of the deadline for submission of the reporting on monitoring.

3. The decision on refusal to extend the deadline for submission of the reporting on monitoring shall be made if a major taxpayer, subjected to monitoring, has tax arrears as of the date of submission of his tax application, which is mentioned in paragraph 1

of this Article, on the basis of the certificate on absence (presence) of tax arrears, arrears of obligatory pension contributions and social contributions or the fact of violation of the deadlines for submission of the reporting on monitoring for previous twelve-month period.

4. An authorized body shall have the right to extend the deadline for submission of the reporting on monitoring for the period no longer than three months from the deadline, set for submission of this reporting.

5. If an authorized body decided to refuse to extend the deadline for submission of the reporting on monitoring, a major taxpayer, who is subjected to monitoring, shall submit this reporting in the order, established by this Code.

6. If mistakes are revealed in the software of a tax service bodies which have an impact on timeliness of submission of the tax reporting in electronic format, the authorized body shall extend the deadline for submission of this reporting for no longer than three months from the deadline, set for submission of this reporting.

**Footnote. Article 71 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).**

#### **Article 72. Extension of the deadline for submission of the tax reporting by a tax body**

1. A tax body under an application of a taxpayer (a tax agent) shall extend the deadline for submission of the tax reporting provided that it shall be presented in electronic form, except for the reporting on monitoring and tax reporting on indirect taxes on import of goods to the territory of Republic of Kazakhstan from the territory of the Customs Union member-states.

2. The tax application for extension of the deadline for submission of the tax reporting shall be submitted in duplicate by a taxpayer (a tax agent) to a tax body at the place of the registration before the expiry of the deadline, set by this Code, for submission of the tax reporting. One copy of the tax application shall be returned to the taxpayer (tax agent) with a mark of a tax body.

Extension of the deadline for submission of the tax reporting shall be applied to the tax reporting, presented by a tax payer (tax agent) within a calendar year, in which the application on extension of the deadline for submission of the tax reporting is submitted to a tax body.

3. The deadline for submission of the tax reporting shall be extended for a period:

1) on the corporate income tax or the individual income tax - no longer than thirty calendar days from the deadline, set for submission of the declaration;

2) on others of taxes, other obligatory payments to the budget, pension contributions and social contributions - no longer than fifteen calendar days from the deadline, established for submission of the declaration and (or) settling.

Extension of the deadline for submission of the tax reporting shall not be applied to the deadline for submission of the calculation of advances, provided for by Article 141 of this Code.

4. Extension of the deadline for submission of the tax reporting shall not change the deadline for payment of taxes, other obligatory payments to the budget, pension contributions and social contributions.

**Footnote. Article 72 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

**Article 73. The order of suspension (extension, resumption) of submission of the tax reporting by a taxpayer (a tax agent)**

1. A taxpayer (a tax agent), in the order, established by this Article, shall have the right on the basis of the tax application on suspension (extension, resumption) of submission of the tax reporting:

- 1) to suspend submission of the tax reporting;
- 2) to extend the deadline for submission of the tax reporting;
- 3) to resume submission of the tax reporting, unless otherwise provided for by this Article.

A taxpayer (a tax agent), in case of a decision to suspend the activity, shall submit to a tax body at his/her location the application on suspension (extension, resumption) of submission of the tax reporting for the forthcoming period. The period of suspension of submission of the tax reporting in view of its extension shall not exceed the period, established by Article 46 of this Code.

Simultaneously with the tax application on suspension (extension, resumption) of submission of the tax reporting, a taxpayer (a tax agent) shall submit the tax reporting for these taxes, other obligatory payment to the budget, obligatory pension contributions and social contributions from the beginning of a tax period to the date of suspension of the activity, mentioned in this application.

If the deadline for submission of the next tax reporting comes after submission of a tax application, the submission of this next tax reporting shall be performed before the date of submission of the tax application.

2. Within three working days from the date of receipt of the tax application on suspension (extension, resumption) of submission of the tax reporting, a tax body shall make a decision on suspension of submission of the tax reporting or on refusal to suspend submission of the tax reporting in the form, established by an authorized body.

3. The decision on suspension of submission of the tax reporting or on refusal to suspend submission of submission of the tax reporting shall be presented to a taxpayer

(a tax agent) personally against signature or other way which confirms the fact of sending and receiving.

4. The decision on refusal to suspend submission of the tax reporting shall be made if a taxpayer (a tax agent) has tax arrears, arrears of obligatory pension contributions, social contributions as on the date of submission of the application or if a taxpayer (a tax agent) does not submit the tax reporting, mentioned in paragraph 1 of this Article.

5. In case if a tax body makes a decision on refusal to suspend submission of the tax reporting, a taxpayer (a tax agent) shall submit the tax reporting in the order, established by this Code.

6. The decision on suspension of submission of the tax reporting, received by a taxpayer (a tax agent), shall be the ground for not submitting the tax reporting for the period for suspension of submission of the tax reporting, specified in the tax application on suspension (extension, resumption) of submission of the tax reporting, unless otherwise provided by this Article. Non-submission of the tax reporting, mentioned in this paragraph, shall be equated with submission of the tax reporting with zero rates.

7. In case if a taxpayer (a tax agent) makes a decision on resumption of the activity before expiry of the period of suspension of the activity, this taxpayer (tax agent) shall submit, to a tax body at his/her location before expiry of the period of suspension, the tax application on suspension (extension, resumption) of submission of the tax reporting, and the tax reporting in the order, established by this Code.

8. After expiry of the period of suspension of the activity, specified in the decision on suspension of submission of the tax reporting, a taxpayer (a tax agent) shall be obliged to submit the tax reporting to a tax body in the order, established by this Code, unless otherwise provided by paragraph 9 of this Article.

9. A taxpayer shall have the right no later than the date of expiry of current period of suspension of submission of the tax reporting to submit the tax application on suspension (extension, resumption) of submission of the tax reporting.

In submission of the tax application on suspension (extension, resumption) of submission of the tax reporting, this period shall be extended for the period, specified in this application, taking into account the provision of paragraph 1 of this Article. The tax application shall be the ground for not submitting the tax reporting for forthcoming tax periods until the date of resumption of the activity if there is a mark that a tax body received such application.

10. In case a tax body reveals the facts of resumption of the activity by a taxpayer (a tax agent) in the period of its suspension, the tax bodies shall recognize the period of suspension of the tax reporting as terminated from the date of resumption of the activity without notification of these persons.



For purposes of this paragraph, the resumption of the activity is when a taxpayer (a tax agent), who suspended the activity, begins to perform the activity, leading to appearance of the obligation to calculate and pay taxes and other obligatory payments to the budget in accordance with the Special part of this Code.

11. The provisions of this Article shall not be applied to the following taxpayers:

1) individual entrepreneurs, who apply the special tax regimes for peasants and farmers, for subjects of small business on the basis of the patent.

2) individual entrepreneurs or legal entities, who are payers of the tax on gambling industry and (or) fixed tax;

3) legal entities, applying the special tax regime for legal entities-producers of agricultural products, aquaculture production (fish farming) and the rural consumer cooperatives.

12. The provisions of this Article shall not be applied to the order and deadlines for submission of the tax reporting on property taxes for property, vehicles and land, for payment for land use.

**Footnote. Article 73 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 21.01.2010 No. 242-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

**Article 74. The order of suspension (extension, resumption) of submission of the tax reporting by an individual entrepreneur, using a special tax regime for subjects of small business on the basis of a patent**

1. A taxpayer (a tax agent), in the order, established by this Article, shall have the right on the basis of the application on suspension (extension, resumption) of submission of the tax reporting:

1) to suspend submission of the tax reporting;

2) to extend the period of suspension of submission of the tax reporting.

In case if an individual entrepreneur, who applies the special tax regime on the basis of the patent, suspends his/her activity, the application on suspension (extension, resumption) of submission of the tax reporting for forthcoming period shall be submitted to a tax body at the location until the expiry of the patent. The deadline for submission of the tax reporting in view of its extension must not exceed the deadline, established by Article 46 of this Code.

2. The decision of a tax body on suspension of submission of the tax reporting shall be made in the form, established by an authorized body, on the date of submission of the tax application.



3. The decision on suspension of submission of the tax reporting shall be presented to a taxpayer or his/her representative personally against signature or in other way which confirms the fact of sending and receiving.

3-1. The decision on refusal to suspend submission of the tax reporting shall be made if a taxpayer (a tax agent) has tax arrears, arrears of obligatory pension contributions, social contributions as on the date of submission of the application or a taxpayer (a tax agent) does not submit the tax reporting, mentioned in paragraph 1 of this Article.

4. The decision on suspension of submission of the tax reporting shall be the basis for not submitting the estimation for receiving the patent for the period from the date, specified in the tax application on suspension of submission of the tax reporting, to the date of resumption of the activity.

5. A taxpayer shall be recognized as the one, who resumed the activity after expiry of the period of the activity suspension, unless otherwise provided by this Article.

6. A taxpayer shall have the right no later than the date of expiry of the period of suspension of submission of the tax reporting to submit a tax application on suspension (extension, resumption) of submission of the tax reporting to a tax body. This application shall be the basis for not presenting the estimation for receiving the patent until the date of the activity resumption, mentioned in the application.

7. A taxpayer shall have the right to resume the activity before expiry of the period of the activity suspension by submission of the estimation for receiving the patent to tax bodies from the date of the activity resumption.

8. In the submission of estimation for receiving the patent in the period of suspension of submission of the tax reporting, a taxpayer shall be recognized as the one , who resumed the activity from the date of beginning of the activity, mentioned in this estimation.

9. In the submission by a taxpayer of the tax application or estimation for receiving the patent, mentioned in paragraphs 6, 7 of this Article, the activity of the taxpayer shall be recognized as resumed from the date of expiry of the period of the activity suspension, specified in the application on suspension (extension, resumption) of submission of the tax reporting.

9-1. In case a tax body reveals the fact of resumption of the activity by a taxpayer (a tax agent) in the period of its suspension, the tax bodies shall recognize the period of suspension of the tax reporting as terminated from the date of the activity resumption with a written notice to such taxpayer (tax agent).

For the purposes of this paragraph, the resumption of the activity is when a taxpayer (a tax agent), who suspended the activity, begins to perform the activity, leading to appearance of the obligation to calculate and pay taxes and other obligatory payments to the budget in accordance with the Special part of this Code.

10. The provisions of this Article shall not be applied to the order and deadlines for submission of the tax reporting on taxes for property, vehicles and land, for payment for land use.

**Footnote. Article 74 as amended by the Laws of the Republic of Kazakhstan of 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); of 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

## **§ 2. Tax application**

### **Article 75. Basic provisions**

1. Tax application - is a document of a taxpayer (a tax agent), presented to a tax service body to realize his/her rights and to perform obligations in the cases, established by this Code.

2. The forms of tax applications shall be approved by the Government of the Republic of Kazakhstan.

**Footnote. Article 75 as amended by the Law of the Republic of Kazakhstan of 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012).**

### **Article 76. The order of submission of a tax application**

1. A tax application shall be submitted by a taxpayer (a tax agent) to tax bodies in the order and within the periods, established by this Code.

2. Taxpayers (tax agents) shall have the right to submit a tax application, unless otherwise established by this Code, to appropriate tax bodies optionally:

- 1) in person - in a paper format;
- 2) (by mail) by a registered letter with notification - in a paper format;
- 3) in an electronic form, which allows the computer processing of information, - by the system of receiving and processing of tax reporting;

3. In submission of a tax application on paper in person, the tax form shall be composed in a duplicate, one copy shall be returned to a taxpayer (a tax agent) with a mark of a tax body.

4. The structure of electronic format of a tax application, software for composition and submission of a tax application in electronic form and update of this software shall be placed on the official website of an authorized body no later than January 1 of the current year.

5. Making adjustments and (or) addition to a tax application shall be performed in the cases and the order, established by this Code.

**Footnote. Article 76 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009).**

### **§ 3. Tax registers**

#### **Article 77. Tax registers**

1. A tax register - is a document of a taxpayer (a tax agent), which contains the information on taxation objects and (or) objects, related to taxation.

Tax registers shall be designed for generalization and systematization of information for provision of the goals of the tax audit, mentioned in paragraph 3 of Article 56 of this Code.

Formation of tax accounting shall be performed by reflection of the information, used for taxation purposes, in chronological order and ensuring the continuity of tax accounting data between tax periods (including those on operation, the results of which is taken into account in several tax periods, which makes an impact on the size of a taxation objects in forthcoming periods or transfers to a number of years).

Tax registers shall be maintained in the special forms. The forms of tax registers and the order of reflection of tax accounting data in them shall be developed by a taxpayer (a tax agent) personally, except for the forms of tax registers, established by the Government of the Republic of Kazakhstan, and shall be approved in the tax accounting policy.

The accuracy of reflection of business operations in tax registers shall be provided by the persons, who signed them.

2. Tax registers shall include:

1) tax registers, composed by a taxpayer (a tax agent) personally in the forms, established by the taxpayer (tax agent) in the tax accounting policy, taking into account the provisions of Article 56 of this Code;

2) tax registers, composed by a taxpayer (a tax agent), the forms and regulations of which shall be established by the Government of the Republic of Kazakhstan.

3. Tax registers shall contain the following obligatory requisites:

1) the name of a register;

2) the identity number of a taxpayer (a tax agent);

3) the period for which the register is made;

4) the last name, the first name and the middle name (if there is one) of a person who is responsible for a register.

4. The government of the Republic of Kazakhstan shall have the right to establish the forms of registers for reflection of the information on:

1) use of tax exemption, reduction of taxable income for the corporate income tax, investment tax preferences;

2) determination of the cost balances of groups (subgroups) of the fixed assets and further expenses for the fixed assets;

3) the derivative financial instruments;

3-1) the amounts of the management and general administrative expenses of a nonresident legal entity which are attributed for deduction by its establishment in the Republic of Kazakhstan;

3-2) the property, which is transferred to financial leasing;

4) the invoices, which are written out and received by a payer of the value-added tax;

**Note of the RCLI!**

**Sub-paragraph 5) shall be enforced from 01.01.2012.**

5) the goods, purchased by taxpayers, who perform the realization of these goods in trade objects, including retail markets.

**Note of the RCLI!**

**The paragraph shall be enforced from 01.01.2012.**

The provisions of sub-paragraph 5) shall be applied to the individual entrepreneurs only, who apply the special tax regime on the basis of the patent.

5. In case of keeping tax registers on paper, correction of errors in these tax registers shall be justified and confirmed by the signature of the person, who made the correction, with specification of the date and justification of the corrections.

6. Tax registers shall be presented to tax bodies' officials during the documentary checks on paper and (or) in an electronic format - at the request of the tax bodies' officials, performing the inspection.

7. When making tax registers in electronic form, a taxpayer (a tax agent) shall be obliged, during the tax audit at the request of the tax bodies' officials, to present tax registers in electronic formats and copies of these tax registers on paper, which are certified by the signatures of the head and the persons (person), who are (is) responsible for composition of these tax registers of a taxpayer (a tax agent), and by the stamp of a taxpayer (a tax agent), except for the cases when a taxpayer (a tax agent) does not have a stamp on the grounds, provided by the legislation of the Republic of Kazakhstan.

**Footnote. Article 77 as amended by the Laws of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced from 01.01.2012); dated 16.11.2009 No. 200-IV (the order of enforcement see Article 2); dated 09.06.2010 No. 288-IV (shall be enforced from 01.01.2011); dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012).**

## **Chapter 9. SPECIFICS OF THE TAX ACCOUNTING**

### **Article 78. Financial leasing**

1. Transfer of property under a lease agreement, concluded in accordance with the legislation of the Republic of Kazakhstan, for the period longer than three years, shall

be recognized as financial leasing, if it corresponds with one of the following conditions:

1) transfer of the property to the ownership of a lessee and (or) provision of the right to a lessee to purchase property for the fixed price are specified by a lease agreement;

2) a period of a financial leasing exceeds seventy five percent of useful life of the property, transferred to financial leasing;

3) the current (discounted) cost of leasing payments for the whole period of financial leasing exceeds ninety percent of the cost of the property, transferred to financial leasing.

Financial leasing is also a provision in the secondary leasing of the leased objects.

For purposes of this Code, the secondary leasing is a provision to other lessee (lessees) of the leased objects, remained in the ownership of a lessor in case of termination of a lease agreement or its changes in connection with the change in number of the leased objects (for purposes of this Article, hereinafter - the primary lease agreement), with simultaneous observance of the following conditions:

date of cancellation, termination or amendment of the contract of the primary lease and date of the contract(s) of the secondary leasing accounted for one tax period specified in Article 269 of this Code;

a secondary lease agreement saves the conditions, which are provided by the primary lease agreement, except for the conditions for the number of the leased objects, leasing payments and a lease period;

the objects, provided in the secondary leasing, shall be the objects in the number, which does not exceed their total number in the primary lease agreement;

in case the primary lease agreement foresees the method of annuity payments - the total amount of lease payments under a secondary lease agreement (agreements) shall not exceed the total amount of lease payments in the primary lease agreements, reduced to the amount of lease payments, received from a lessee under the primary lease agreements.

in case that the primary lease agreement foresees the method of payment in equal shares - the cost of a leased object, transferred to the secondary leasing, shall not exceed the unpaid cost of the leased object under the primary lease agreement, the amount of the remuneration rate under a second lease agreement (agreements) shall not exceed the amount of the remuneration rate under the primary lease agreement;

the leased objects shall be provided in the secondary leasing for the period no less than three years.

For purposes of this Code, the transfer of property to the financial leasing shall be considered as realization of the property by a lessor to a lessee. At that, the lessee shall

be considered as the owner of the leased object, and lease payments - as payments on the loan granted to the lessee.

For purposes of this Code:

the method of annuity payments - is the method of settling of lease payments, in which the lease payments shall be set to equal amounts at equal time intervals;

the method of payment in equal shares - is the method of settling of lease payments, in which the lease payments, except for lease remunerations, shall be set to equal amounts.

2. If a lease agreement determines the right of a lessee to extend the period of financial leasing, the period of financial leasing shall be determined, taking into account the period of the actual extension.

3. The cost of property, which is transferred (received) to the financial leasing (under financial leasing), shall be determined at the date of conclusion of the lease agreement.

The property, which is transferred to the financial leasing, is the leased objects, subjected to receiving by a lessee as the primary means of real estate investments, biological assets.

4. For purposes of taxation, the following cases shall not be recognized as the financial leasing:

1) leasing transactions in the event of termination of their lease agreements (termination of the obligations under the lease agreement) before the expiry of three-year period from the date of conclusion of these agreements, except for the following cases:

recognition of a lessee's bankruptcy in accordance with the legislation of the Republic of Kazakhstan and his/her removal from the State register of legal entities;

recognition of an individual a lessee on the basis of the implemented court decision as missing or announcement of his death, incapable or partially capable, ascertainment of his/her disability of I, II group, and in case of death of an individual - a lessee;

coming into force of regulations of an enforcement agent on return of an enforcement document to a lessor in connection with in the absence of the lessee's property, including money, securities and income, which may be levied, and when an enforcement agent unsuccessfully takes the measures, provided by the legislation of the Republic of Kazakhstan on enforcement procedure and the status of enforcement agents, for identification of the property, including money, securities and income;

shall be enforced of the court decision to refuse a lessor's application for foreclosure of the property of a lessee, including money, securities or income;

transfer of the leased objects to the secondary leasing;

2) a leasing transaction, in which the amount of lease payments (under the agreement and (or) actual) for the first year of the lease agreement shall be more than 50 percent of the cost of a leased object;

3) the leasing transactions, in which a lessee was replaced before the expiry of a three-year period from the date of conclusion of a lease agreement, except for the replacement in connection with the reorganization of a lessee;

3-1) the leasing transactions, in which a lessee was replaced;

4) the transactions of transfer of property to the subleasing.

**Footnote. Article 78 as amended by the Laws of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 09.06.2010 No. 288 -IV (shall be enforced from 01.01.2011).**

#### **Article 79. Long-term contracts**

1. For purposes of this Article, a long-term contract is a contract (an agreement) on production, installation, building, which is incomplete within a tax period for the corporate income tax, when the production, installation, building, provided by the contract, was started.

2. Amount of actual expenses for a tax period under a long-term contract shall be attributed to deduction in accordance with Article 100 - 125 of this Code.

3. Income under long-term contract shall be determined by the actual method or the method of completion according to the choice of a taxpayer.

The chosen method of determination of income shall be reflected in the tax policy and cannot be changed during the term of the contract.

4. In accordance with the actual method, the income under a long-term contract for the reporting tax period shall be the income, subjected to receiving (received) for the reporting tax period, but no less than amounts of the expenses for this period under the long-term contract.

5. In accordance with the method of completion, the income under a long-term contract for the reporting tax period shall be determined as the product of the total amount of income under a long-term contract and the share of fulfillment of this contract for the reporting tax period.

At that, the share of fulfillment of the contract shall be determined as the ratio of amount of the expenses for the reporting tax period and those, attributed to deduction in accordance with this Code, to the total amount of expenses under the long-term contract, which may be attributed to deduction in accordance with this Code, for the term of the contract.

#### **Article 80. Implementation of the joint activity**

1. Unless otherwise provided by this Code, in case of an agreement on implementation of the joint activity or other agreement, which foresees two or more participants of an agreement on joint activity without forming a legal entity (hereinafter - the agreement on joint activity), taxation object and (or) objects, related to taxation shall be taken into account and subjected to taxation from each participant of the agreement on joint activity in the order, established by this Code.

2. Each participant of an agreement on joint activity, regarding his/her share of participation, shall personally account assets, obligations, income, and expenses of joint activity for determination of taxation objects and (or) objects, related to taxation, unless otherwise provided by this Code.

3. In case that an agreement on joint activity does not specify the order of distribution of assets, income, and expenses of the joint activity for determination of taxation objects and (or) objects, related to taxation, the participants of the agreement on joint activity shall develop and approve the tax accounting policy on joint activity before submission of the first tax reporting, reflecting this order and the tax obligation, appeared as the result of the joint activity.

4. An agreement on joint activity may determine an authorized representative of the participants of the agreement on joint activity, who is responsible for keeping the tax accounting for this activity or its part, unless otherwise provided by this Code.

5. For taxation purposes, assets, obligations, income, and expenses of the joint activity or its part shall be taken into account by an authorized representative of the participants of the agreement on joint activity separately from assets, obligations, income, and expenses of other activity of this authorized representative.

6. Distribution of assets, obligations, income, and expenses of the joint activity for determination of taxation object and (or) objects, related to taxation between the participants of the agreement on joint activity, shall be performed by the participants of the agreement on joint activity and (or) their authorized representative for each tax period in the order, established in the agreement on joint activity.

If the condition of an agreement on joint activity and (or) tax accounting policy on the joint activity does not establish the order of distributing the assets, obligations, income, and expenses for determination of taxation objects and (or) objects, related to taxation, the participants of the agreement on joint activity and (or) an authorized representative of these participants shall perform this distribution in proportion to the shares of participation in accordance with the agreement on joint activity.

The results of distributions of assets, obligations, income, and expenses for determination of taxation objects and (or) objects, related to taxation between the participants of the agreement on joint activity, must be drawn in writing, signed by all participants of the agreement on joint activity and (or) their authorized representative (if there is one), sealed (if there are stamps in the cases, provided by the



legislation of the Republic of Kazakhstan). The document on the results of distribution of assets, obligations, income, and expenses shall be submitted by each participant of the agreement on joint activity to tax service bodies during the implementation of the documentary check.

An authorized representative of the participants of an agreement on joint activity shall be obliged to have copies of all the documents, on the basis of which the distribution of assets, obligation, income, and expenses was performed, unless otherwise provided by this Code.

**Footnote. Article 80 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2009).**

## **SECTION 4. THE CORPORATE INCOME TAX**

### **Chapter 10. BASIC PROVISIONS**

#### **Article 81. The payers**

1. Payers of the corporate income tax are legal entities, who are residents of the Republic of Kazakhstan, except for the state institutions, and nonresident legal entities, working in the Republic of Kazakhstan through a permanent establishment or receive income from sources in the Republic of Kazakhstan.

2. Legal entities, who apply the special tax regime on the basis of the simplified declaration, shall calculate and pay the corporate income tax for the income, which is taxable under this regime, in accordance with Chapter 61 of this Code.

3. Payers of the tax on gambling industry and the fixed tax shall not be the payers of the corporate income tax for the income from the activity, specified in Articles 411, 420 of this Code.

#### **Article 82. Taxation objects**

The objects of taxation of the corporate income tax are:

- 1) the taxable income;
- 2) the income, which is taxable at the source of payment;
- 3) the net income of a nonresident legal entity, working in the Republic of Kazakhstan through a permanent establishment.

### **Chapter 11. TAXABLE INCOME**

#### **Note of the RCLI!**

**Operation of Article 83 for insurance, reinsurance companies in the part of their insurance operations, reinsurance operations is suspended until 01.01.2012 by the Law of the Republic of Kazakhstan dated 01.12.2008 No.100-IV and the taxation order operates during the suspension period...**

## **Article 83. Taxable income**

Taxable income shall be determined as the disparity between the total annual income, taking into account the adjustments, provided by Article 99 of this Code, and the deductions, provided for by this Section.

### **§1. The total annual income**

## **Article 84. The total annual income**

1. The total annual income of a resident legal entity shall consist of the income, which is subjected to receiving (received) by this legal entity in the Republic of Kazakhstan and outside the Republic during a tax period.

The total annual income of a nonresident legal entity, working in the Republic of Kazakhstan through a permanent establishment, shall consist of the income, specified in Article 198 of this Code.

The income from sources outside the Republic of Kazakhstan, which are received by a resident legal entity, shall be subjected to taxation in the order, established by this Section and Article 27 of this Code.

2. For taxation purposes, the following shall not be considered as income:

- 1) the cost of the property, received as a contribution to the authorized capital;
- 2) the amount of money, received by an issuer for placement of the shares, issued by it.
- 3) unless otherwise provided by this Code, for a taxpayer, transferring the property at no cost, - the cost of gratuitously transferred property. The cost of gratuitously executed works, provided services shall be determined in the amount of expenses for execution of the works, provision of the services;
- 4) the amount of reduction of the size of the tax obligation in the cases, provided by this Code;
- 5) unless otherwise provided by this Code, the income, which appears in connection with changes in value of assets and (or) obligations, recognized as income in accounting in accordance with international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting, except for that, subjected to receiving (received) from other person;
- 6) increase in undistributed profit at the expense of reduction in reserves for revaluation of assets in accordance with international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting;
- 7) the income, which appears in connection with recognition of the obligation in the accounting in accordance with international standards of financial reporting and

requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting in the form of positive disparity between the amount of the actual obligation and the cost of this obligation, recognized in the accounting;

**Note of the RCLI!**

**Sub-paragraph 8) shall be enforced from 01.01.2012.**

8) for a managing company, which performs entrusted administration of the assets of a mutual fund on the basis of the license for investment portfolio management - the investment income, which is received by mutual funds in accordance with the legislation of the Republic of Kazakhstan on investment funds, and recognized by this custodian of the mutual fund, except for remuneration of this managing company.

**Footnote. Article 84 as amended by the Laws of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 09.01.2012 No. 535-IV (the order of enforcement see Article 2).**

#### **Article 85. Income included in the total annual income**

1. The total annual income shall include all thes of a taxpayer's income:

- 1) the income from realization;
- 2) the income from value increase;
- 3) the income from derivative financial instruments;
- 4) the income from the cancellation of obligations;
- 5) the income for doubtful obligations;

**Note of the RCLI!**

**Sub-paragraph 6) is in the wording of the Law of the Republic of Kazakhstan dated 26.11.2012 No. 57-V (shall be enforced from 01.01.2013)**

6) the income from reducing the size of created provisions (reserves) of banks and organizations, performing certains of banking operations on the basis of the license;

**Note of the RCLI!**

**Operation of sub-paragraph 7) for insurance, reinsurance companies is suspended until 01.01.2012 by the Law of the Republic of Kazakhstan dated 01.12.2008 No. 100-IV and the taxation order operates during the suspension period**

7) the income from reduction of the insurance reserves, created by insurance, reinsurance companies under contracts of insurance, reinsurance;

8) the income from cession of the right of claim;

9) the income, which is received for the agreeing to limit or terminate an entrepreneurial activity;

10) the income from retirement of fixed assets;

11) the income from the adjustment of costs of geological studies and preparatory works for extraction of natural resources, and other expenses of subsoil users;

12) the income from excess of the amount of transfers to the Fund of Liquidation of Mining Consequences over the amount of actual expenses for the liquidation of mining consequences;

13) the income from joint activity;

14) the penalties, fines and others of sanctions, conferred or recognized by a debtor, except for the refunded ones from the budget, unreasonably withheld penalties if these amounts had not been previously attributed to deduction;

15) the received compensations for earlier performed deductions;

16) the income in the form of gratuitously received property;

17) the dividends;

18) the remuneration for a deposit, security, bill, Islamic lease certificates;

19) an excess of the amount of the positive exchange rate disparity over the amount of the negative exchange rate disparity. The amount of the exchange rate shall be determined in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting;

20) the winnings;

21) the income, received in exploitation of the social objects;

22) the income from selling of a company as the property complex;

22-1) the income for investment deposit, placed in an Islamic bank;

23) the net income from an entrusted administration of property, received (subjected to receiving) by a founder of the entrusted administration under a contract on entrusted administration or by a beneficiary in other cases of the entrusted administration;

24) the other income which is not specified in sub-paragraphs 1) - 23) of this paragraph.

2. In case the same income may be reflected in several Articles of income, this income shall be once included in the total annual income.

In case that the date of recognition of income in accordance with international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting is different from the date of recognition of income in accordance with this Code, the specified income shall be once taken into account for taxation purposes.

At that, the date of recognition of income for taxation purposes shall be determined in accordance with the provision of this Code.

3. For purposes of this Section, in case a taxpayer, who is an entrusted administrator, is entrusted with fulfillment of the tax obligation for a founder of the entrusted administration of property or a beneficiary by the act of foundation of entrusted administration of property, the total annual income of this taxpayer shall

include the income of the founder of the entrusted administration under the contract on the entrusted administration of property or beneficiary in other cases of entrusted administration.

4. A taxpayer shall have the right to make adjustments to income in accordance with Articles 131 and 132 of this Code.

**Footnote. Article 85 as amended by the Law of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 86. The income from realization**

1. The income from realization is the cost of realized goods, works, and services, except for the income, included in the total annual income in accordance with Articles 87 - 98 of this Code, and the income, specified in paragraph 2 of Article 111 of this Code, in the part which does not exceed the amount of expenses, specified in paragraph 1 of Article 111 of this Code, unless otherwise provided by the legislation of the Republic of Kazakhstan on Transfer Pricing.

The cost of the realized goods, works, and services shall not include the amount of the value-added tax and excise.

2. For purposes of this Section, the income from service provision shall also include:

1) the income in the form of remuneration for a credit (a loan, microcredit) on repo transactions;

2) the income in the form of remuneration for transfer of property to the financial leasing;

3) the royalties;

4) the income from the leased property.

**Footnote. Article 86 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).**

#### **Article 87. The income from the value increase**

1. The income from the value increase shall be formed of:

1) realization of the assets, which are not subjected to depreciation, except for the assets, which are redeemed for the state needs in accordance with the legislative acts of the Republic of Kazakhstan;

2) transfer of the assets, which are not subjected to depreciation, as a contribution to the authorized capital;

3) retirement of the assets, which are not subjected to depreciation, as a result of reorganization by merger, accession, separation or segregation.

2. For purposes of this Article, the assets, which are not subjected to depreciation, shall include:

- 1) the parcels of land;
- 2) the objects of incomplete building;
- 3) the uninstalled equipment;
- 4) the assets with the service life of more than one year, which are not used in the activity, aimed at receiving of income;
- 5) the securities;
- 6) the shares of participation;
- 7) the fixed assets, the cost of which is fully attributed to deduction in accordance with the tax legislation of the Republic of Kazakhstan, operating until January 1, 2000.
- 8) the assets, which are put into operation under an investment project under the contracts, concluded before January 1, 2009 in accordance with the legislation of the Republic of Kazakhstan on investments, the cost of which is attributed to deduction;
- 9) the property, attributed to the social objects in accordance with paragraph 2 of Article 97 of this Code.

3. In the case, specified in sub-paragraph 1) of paragraph 1 of this Article (except for the cases, provided by paragraphs 5, 6, 11 of this Article), the increase shall be determined by each asset as the positive disparity between the cost of realization and the primary cost.

In the case, specified in sub-paragraph 2) of paragraph 1 of this Article (except for the cases, provided by paragraphs 5, 6, 11 of this Article), the increase shall be determined by each asset as the positive disparity between the cost of asset, based on the cost of a contribution, specified in the founding documents of a legal entity, and the primary cost.

In the case, specified in sub-paragraph 3) of paragraph 1 of this Article (except for the cases, provided by paragraphs 5, 6, 11 of this Article), the increase shall be determined by each asset as the positive disparity between the cost, reflected in the transfer act or separation balance, and the primary cost.

4. For purposes of this Article, the primary cost of assets, which are not subjected to depreciation, except for securities and shares of participation, is the totality of costs of purchase, production, installation of assets, and other costs, increasing their value, including post-acquisition in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting, except for:

the costs (expenses), which are not attributable to deduction in accordance with this Code, except for the costs, specified in sub-paragraph 14) of Article 115 of this Code;

the costs (expenses), which are attributed to deduction in accordance with the second part of paragraph 12 of Article 100 of this Code;

the costs (expenses), on which a taxpayer shall have the right for deduction on the basis of paragraphs 6 and 13 of Article 100, and Articles 101 - 114 of this Code;

the depreciation charges;

the costs (expenses), which appear in the accounting and are not considered as expense for taxation purposes in accordance with paragraph 15 of Article 100 of this Code.

5. For the securities, except for the debt securities, as well as for participation share, the increase of the value for each security, share shall be recognized:

1) in realization - the positive disparity between the cost of realization and the primary cost (contribution);

2) in transfer as a contribution to the authorized capital - the positive disparity between the cost of a security, participation share, which are determined on the basis of the cost of contribution, specified in the founding documents of a legal entity and the primary cost of securities, participation shares;

3) in retirement as a result of the reorganization of a legal entity by merger, accession, separation, and segregation - the positive disparity between the cost, reflected in the transfer act or separation balance, and the primary cost (contribution).

6. For the debt securities, the increase of the value for each security shall be recognized:

1) in realization - the positive disparity, excluding coupon, between the cost of realization and the primary cost, including depreciation of discount and (or) bonus as of the date of the realization;

2) in transfer as a contribution to the authorized capital - the positive disparity, excluding coupon, between the cost of a debt security, which is determined on the basis of the cost of the contribution, specified in the founding documents of a legal entity, and the primary cost, including depreciation of discount and (or) bonus as of the date of the transfer;

3) in retirement as a result of the reorganization of a legal entity by merger, accession, separation, and segregation - the positive disparity, excluding coupon, between the cost, reflected in the transfer act or separate balance, and the primary cost, including depreciation of discount and (or) bonus as of the date of the retirement;

7. For purposes of this Article, the primary cost of securities and a participant share is the totality of actual costs of their purchase, the costs, connected with purchase of securities, increasing their value and participation shares in the cases, provided by international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting, and the cost of a contribution to the authorized capital.

8. Unless otherwise provided by this Article, the cost of a contribution to the authorized capital is the cost which is specified in the founding documents of a legal entity.

8-1) The income from increase of the value in realization of securities shall be included in the total annual income, taking into account the provisions of paragraphs 2, 3, 4, 4-1 and 4-2 of Article 137 of this Code.

9. When a taxpayer, who shall not determine deductions of the fixed assets in accordance with this Code, includes in the authorized capital the living quarters, country cottages, garages, other personal objects which are under the ownership right of this taxpayer for one year or longer from the moment of the registration of the ownership right, the cost of a contribution to the authorized capital shall be the cost of the transferred property, determined in accordance with the civil legislation of the Republic of Kazakhstan.

10. When a taxpayer, who shall not determine deductions of the fixed assets in accordance with this Code, includes in the authorized capital the property, which is not specified in paragraph 9 of this Article, the cost of a contribution to the authorized capital shall be the cost of purchase, production, building, mounting, and installation of the property, transferred to the authorized capital.

When there is no cost of purchase, production, building, mounting, and installation of the property, transferred to the authorized capital, the cost of a contribution shall be the market value of the property as of the date of appearance of the ownership right for this property. For purposes of this paragraph, the market value is the cost, which is determined in the evaluation report, made under an agreement between an appraiser and a taxpayer in accordance with the legislation of the Republic of Kazakhstan on valuation.

The market value of property must be determined by a taxpayer no later than the deadline, established for submission of the declaration for the corporate income tax.

11. For the assets, specified in sub-paragraphs 7) and 8) of paragraph 2 of this Article, the increase of the value of each asset shall be determined:

- 1) in case of realization - equal to the cost of realization;
- 2) in case of transfer as a contribution to the authorized capital - equal to the cost of an asset, determined on the basis of the cost of the contribution, specified in the founding documents of a legal entity.
- 3) in case of retirement as a result of reorganization of a legal entity by merger, accession, separation or segregation - equal to the cost, reflected in the transfer act or the separation balance.

12. If the assets, which are not subjected to depreciation, were received gratuitously, for purposes of this Article, the primary cost shall be the cost of assets, included in



the total annual income in the form of the cost of gratuitously received property in accordance with this Code.

**Footnote.** Article 87 in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).

#### **Article 88. The income from cancellation of obligations**

1. The income from cancellation of obligations shall include:
  - 1) the cancellation of a taxpayer's obligations by his/her creditor;
  - 2) the obligations, not demanded by a creditor at the time of approval of the liquidation balance in the liquidation of a taxpayer;
  - 3) the cancellation of obligations in connection with the expiry of the limitation period, specified by the legislative acts of the Republic of Kazakhstan;
  - 4) the cancellation of obligations under the implemented court decision.
2. The amount of income from cancellation of obligations is equal to the amount of obligation (except for the amount of the value-added tax), which are payable in accordance with the primary documents of a taxpayer as of the date:
  - of cancellation in the cases, specified in sub-paragraph 1), 3) and 4) of paragraph 1 of this Article;
  - of approval of the liquidation balance in the case, specified in sub-paragraph 2) of paragraph 1 of this Article.
3. The provision of paragraphs 1 and 2 of this Article shall not be applied to the obligations, recognized as doubtful in accordance with this Code.
4. The income from cancellation of obligations shall not include the reduction of the size of obligations in connection with their transfer as the property complex under a sale contract.

**Footnote.** Article 88 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009).

#### **Article 89. The income for doubtful obligations**

The obligations, which appear for the purchased goods (works, services), and for the calculated income and other payments to employees, determinable in accordance with paragraph 2 of Article 163 of this Code, and those, not satisfied within three years from the date of appearance of these obligations, shall be recognized as doubtful.

The specified obligations shall be subjected to inclusion into the total annual income of a taxpayer within the amount of these obligations which is previously attributed to deduction, except for the value-added tax which shall be restored on

mutual settlement with the budget on the rate, accepted on the date of appearance of the obligations, in proportion to the amount of the obligations, which are previously attributed to deduction.

**Article 90. The income from reducing the size of the created provisions (reserves)**

**Note of the RCLI!**

This wording of paragraph 1 shall operate until 01.01.2013 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (for the suspended version see an archived version No. 30 of the Tax Code of the Republic of Kazakhstan)

Paragraph 1 is provided in the wording of the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2013).

Paragraph 1 is provided in the wording of the Law of the Republic of Kazakhstan dated 26.11.2012 No. 57-V (shall be enforced from 01.01.2014).

1. The income from reducing the size of provisions (reserves), created by a taxpayer, who shall have the right to deduct the provision (reserves) in accordance with paragraphs 1 and 4 of Article 106 of this Code, unless otherwise provided by this Article, shall be recognized as:

1) the amounts of provision (reserves), which are previously attributed to deduction, in the amount proportional to the amount of fulfillment, in case of fulfillment of the obligation by a debtor;

2) the amounts of provision (reserves), which are previously attributed to deduction, when reducing the size of claims against a debtor under an agreement on break-up fee, novation agreement, transfer of the right of claim by conclusion of a cession agreement and (or) on the other grounds, provided by the legislation of the Republic of Kazakhstan, in the amount proportional to the amount of reducing the size of claims;

3) the amounts of the provisions (reserves), previously attributed to deduction in the amount proportional to the amount of a reclassified requirement, in cases of the reclassification of claims.

**Note of the RCLI!**

Paragraph 1-1 shall be enforced from 01.01.2012 and operate until 01.01.2018 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV.

1-1. The income from reducing the size of provisions (reserves), created by a taxpayer, who shall have the right to deduct the amounts of the costs of creation of the provisions (reserves) in accordance with paragraph 1-1 of Article 106 of this Code, unless otherwise provided by paragraph 2 of this Article, shall be recognized as:

1) the amounts of provision (reserves), which are previously attributed to deductions, in the amount proportional to the amount of fulfillment, in case of fulfillment of the obligation by a debtor;

2) the amounts of provision (reserves), which are previously attributed to deductions, when reducing the size of claims against a debtor under an agreement on break-up fee, novation agreement, transfer of the right of claim by conclusion of a cession agreement and (or) on the other grounds, provided by the legislation of the Republic of Kazakhstan, in the amount proportional to the amount of reducing of the size of claims;

3) the amount of reducing provisions (reserves), previously attributed to deduction in the amount proportional to the amount of a reclassified claim, in case of the reclassification of claims.

**Note of the RCLI!**

The amendment in paragraph 2 shall be enforced from 01.01.2012 and operate until 01.01.2013 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV, in the wording of the Law of the Republic of Kazakhstan dated 26.11.2012 No. 57-V (shall be enforced from 01.01.2018).

2. The following cases shall not be recognized as the income from reducing the size of provisions (reserves), created by a taxpayer, who shall have the right to deduct the amounts of the costs of creation of the provisions (reserves) in accordance with paragraph 1, 1-1 and 4 of Article 106 of this Code, unless otherwise provided by paragraph 2 of this Article,:

1) removal from the State Register of legal entities in connection with the reorganization of a legal entity - a debtor under the court decision on the grounds, established by legislative acts of the Republic of Kazakhstan;

2) recognition of an individual-a debtor on the basis of the implemented court decision as missing or declaration of his/her death, incapability or partial incapability, ascertainment of his/her disability of I, II group, and in case of death of an individual-a debtor;

3) coming into force of regulations of an enforcement agent on return of an executive document to a taxpayer, who shall have the right to deduct the amount of the costs of creation of the provisions (reserves) in accordance with paragraphs 1 and 4 of Article 106 of this Code, in the case when a debtor and the third persons, who together with the debtor bear the joint and subsidiary responsibility before a taxpayer, who shall have the right to deduct the amount of the costs of creation of the provisions (reserves) in accordance with paragraphs 1 and 4 of Article 106 of this Code, do not have property, including money, securities or income which can be recovered, and when an enforcement agent unsuccessfully takes the measures, provided by the legislation of the Republic of Kazakhstan on execution procedure and the status of enforcement agents, for identification of the property, including money, securities and income;

4) coming into force of the court decision on refusal to a taxpayer, who shall have the right to deduct the amount of the costs of creation of the provisions (reserves) in

accordance with paragraphs 1 and 4 of Article 106 of this Code, to foreclose the property, including money, securities or income of a debtor;

**Note of the RCL!**

Sub-paragraph 5) shall be enforced from 01.01.2012 in accordance with the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV.

5) removal from the register as an individual entrepreneur in connection with recognition of the individual entrepreneur's - the debtor's bankruptcy in accordance with the legislation of the Republic of Kazakhstan on bankruptcy;

**Note of the RCL!**

Sub-paragraph 6) shall be enforced from 01.01.2012 and operate until 01.01.2018 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV.

6) concession by a bank of the right of claim on a credit (a loan) to an organization, improving the quality of the credit portfolios of the second level banks, hundred percent of the voting shares of which belongs to the National Bank of the Republic of Kazakhstan, - in the part of the negative disparity between the cost of the right of claim on the credit (loan), on which the banks made the concession, and the cost of claim on the credit (loan), which is receivable by the bank from the debtor on the date of the concession of the right of claim on the credit (loan) in accordance with the primary documents of the bank.

3. The income from reducing the size of insurance reserves, created by insurance, reinsurance company under the contracts of insurance and reinsurance, shall be the amount of reducing the size of the created insurance reserves, which are attributed to deduction in the size and the order, established by this Code.

**Footnote. Article 90 as amended by the Laws of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced from 01.01.2012); dated 13.02.2009 No. 135-IV (the order of enforcement see Article 3); dated 16.11.2009 No. 200-IV (the order of enforcement see Article 2).**

## **Article 91. The income from concession of the right of claim**

The income from concession of the right of claim:

1) for a taxpayer, who purchases the right of claim, - is the positive disparity between the amount, receivable from a debtor at the request of the principal debt, including the amounts in excess of the principal debt on the date of the concession of the right of claim, and the cost of purchase of the right of claim;

2) for a taxpayer, who conceded the right of claim, - is the positive disparity between the cost of the right of claim, for which the concession is made, and the cost of the claim, receivable from a debtor on the date of the concession of the right of claim in accordance with the primary documents of the taxpayer.

## **Article 92. The income from retirement of financial assets**

If the cost of retired fixed assets (on group I) or a group (on groups II, III and IV), determined in accordance with Article 119 of this Code, exceeds the balance of the subgroup (on group I) or groups (on groups II, III and IV) at the beginning of a tax period, taking into account the cost of the received fixed assets in the tax period, and further expenses, which are incurred in the tax period and taken into account in accordance with paragraph 3 of Article 122 of this Code, the size of the excess shall be included into the total annual income. The cost balance of this sub group (on group I) or a group (on groups II, III and IV) becomes equal to zero at the end of the tax period.

**Footnote. Article 92 as amended by the Law of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2).**

## **Article 93. The income from the cost adjustments to geological studies and preparatory works for mining and other expenses of subsoil users**

If the amount of income, which makes adjustments in accordance with Article 111 of this Code to the costs, which form a separate group, exceeds the amount of the last one at the beginning a tax period, taking into account the incurred expenses in the tax period, the amount of the excess shall be included into the total annual income. The size of this group becomes equal to zero at the end of the tax period.

## **Article 94. The income from exceeding the amount of contributions to the fund of liquidation of mining consequences over the amount of the actual costs for liquidation of mining consequences**

1. If the actual costs for liquidation of mining consequences are lower than the contributions, made to the specified fund, the disparity shall be included into the total annual income.

2. In case that a subsoil user does not execute the works on liquidation of mining consequences within the period, established by the program for liquidation of mining, approved by an appropriate government body, the amounts of contributions to the Fund of Liquidation of Mining Consequences, attributed to deduction for the accounting period, shall be included into the total annual income of the tax period where they must be made.

## **Article 95. The received compensations on previously performed deductions**

1. The income, received in the form of compensations on previously performed deductions shall include:

- 1) the amounts of claims, recognized as doubtful, previously attributed to deduction and refunded within further tax periods;
- 2) the amounts, received from the state budget for covering the costs (expenses);
- 3) the amount of compensation for damage, paid by an organization or a person, who inflicted the damage, except for the insurance payments, specified in Article 119 of this Code;
- 4) other compensations, received for recovery of the costs which are previously attributed to deductions.

The received compensation is the income of the tax period in which it was received

2. The amount of insurance premiums, which are refundable or refunded by an insurance company to a policy-holder at its expiry or in early termination of a contract of the unfunded insurance and previously attributed to deduction by the policy-holder, shall be included into the total annual income of the tax period where they were refundable and refunded to the policy-holder.

#### **Article 96. Gratuitously received property**

Unless otherwise established by this Code, the cost of any property, including works and services, gratuitously received by a taxpayer shall be his/her income.

The cost of gratuitously received property, including works and services, shall be determined by the date of accounting in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting.

The cost of property, including works and services, received in accordance with paragraph 11 of Article 100 of this Code shall not be recognized as gratuitously received property.

**Footnote. Article 96 as amended by the Law of the Republic of Kazakhstan 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009).**

#### **Article 97. The income received in exploitation of the social objects**

1. The social objects shall include the property, which is owned by a taxpayer under the ownership right, used in performing these activities, provided by this Article.

2. The total annual income of a taxpayer shall include the excess of receivable (received) income over the actual incurred costs in exploitation of the social objects, used in the followings of activities:

- 1) a medical activity;



2) an activity in the sphere of primary, basic secondary, general secondary, technical and professional, post-secondary, higher and postgraduate education; additional education;

3) an activity in the sphere of science, physical culture and sports, culture, provision of services on preservation of historic and cultural heritage, archival values;

4) a recreational activities for employees, members of their families, employees and families of the related parties, and exploitation of housing facilities.

3. The income, received from exploitation of the social objects, used in public catering of employees of early childhood care and education, social protection and welfare of children, the elderly and the disabled persons, shall be included in the total annual income.

**Footnote. Article 97 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009).**

#### **Article 98. The income (loss) from selling a company as a property complex**

1. The income from selling a company as a property complex shall be determined as the positive disparity between the cost of realization under a sale contract of a company as the property complex and the balance cost of transferred assets, reduced by the balance cost of the transferred obligations, according to the accounting data on the date of realization.

2. The loss from selling a company as the property complex shall be determined as the negative disparity between the cost of realization under a sale contract of a company as the property complex and the balance cost of the transferred assets, reduced by the balance cost of the transferred obligations, according to the accounting data on the date of realization.

Transfer of the loss from selling a company as the property complex shall be performed in the order, established by Article 137 of this Code.

#### **Article 99. Adjustments to the total annual income**

1. The following shall be excluded from the total annual income:

**Note of the RCLI!**

**Sub-paragraph 1) is amended by the Law of the Republic of Kazakhstan dated 09.01.2012 No. 535-IV (shall be enforced from 01.01.2013).**

1) dividends, except those, paid by private mutual funds of risk investment and stock funds of risk investment;

2) the amount of obligatory calendar, additional and emergency contributions of banks, received by an organization, which performs obligatory assurance of the deposits of individuals;

3) the amount of obligatory, additional and emergency contributions of insurance companies, received by the Fund of assurance of insurance payments;

4) the amount of money, received by an organization, which performs obligatory assurance of the deposits of individuals, and by the Fund of assurance of insurance payments in the order of satisfaction of their requests on the refunded deposits and the performed assurance and compensation payments;

5) investment income, received in accordance with the legislation of the Republic of Kazakhstan on pension provision and transferred to individual pension accounts;

6) investment income, received in accordance with the legislation of the Republic of Kazakhstan on obligatory social insurance and aimed at increase of the assets of the State Social Insurance Fund;

**Note of the RCL!**

**Sub-paragraph 7) shall be enforced from 01.01.2012.**

7) investment income, received by joint-stock investment funds from investment activity in accordance with the legislation of the Republic of Kazakhstan on investment funds and taken into account by a custodian of a joint-stock investment fund;

8) income from concession of the right of debt claim, received by the special financial company under a securitization transaction in accordance with the legislation of the Republic of Kazakhstan on project financing and securitization;

9) net income from an entrusted administration of property, received (receivable) by a founder of the entrusted administration under the agreement on the entrusted administration of property or beneficiary in other cases of the entrusted administration;

10) the amount of annual obligatory contributions, received by the Fund of assurance of obligations' fulfillment of cotton receipts from cotton-processing organizations;

11) the amount of annual obligatory contributions, received by the Fund of assurance of obligations' fulfillment of grain receipts from grain-collecting stations;

12) the amount of money, received by the Fund of assurance of obligation fulfillment of cotton (grain) receipts in the order of satisfaction of requests for the performed insurance payments;

13) the income, received by an Islamic bank in the process of management of money, received in the form of investment deposits, transferred to the accounts of depositors of these investment deposits and remained on them;

14) income from concession of the right of debt claim, received by the Islamic special financial company, created in accordance with the legislation of the Republic of Kazakhstan on securities market;

**Note of the RCL!**

**Sub-paragraph 15) shall be enforced from 01.01.2011 and operate until 01.01.2016 (see Article 2 of the Law of the Republic of Kazakhstan dated 19.03.2010 No. 258-IV).**



15) income from realization, received (receivable) by a nonresident legal entity, working in the Republic of Kazakhstan through a permanent establishment, at the expense of a grant funds under an international agreement, a participant of which is the Republic of Kazakhstan, aimed at support (assistance) of the low-income citizens in the Republic of Kazakhstan;

**Note of the RCLII!**

The second, third and fourth part of paragraph 1 shall be enforced from 01.01.2012 and operate until 01.01.2018.

The income from implementation of these activities, provided by the legislation of the Republic of Kazakhstan on banks and banking, included in the total annual income of the subsidiary of the bank, which purchases doubtful and bad assets of a parental bank, and transferred to the bank, which conceded the right of claim for doubtful and bad assets, shall be excluded from the total annual income of this subsidiary.

At that, attribution of receivable income to the income from implementation of these activities, specified by the legislation of the Republic of Kazakhstan on banks and banking, shall be performed in the order, established by the National Banks of the Republic of Kazakhstan by agreement with an authorized body.

The income from concession of the right of claim, received in connection with the buy-out from the organization, improving the quality of credit portfolios of the second-tier banks, and the hundred percent of the voting shares of which belong to the National Bank of the Republic of Kazakhstan, of the rights of claim for credits (loans) previously conceded to this organizations shall be excluded from the total annual income of a bank.

2. In the transition to a different method of evaluation of inventories from that, which was used by a taxpayer in previous tax period, the total annual income of the taxpayer shall be increased on the amount of the positive disparity and reduced by the amount of the negative disparity, which are formed as a result of application of the new evaluation method.

Transition to a different method of evaluation of inventories shall be performed by a taxpayer from the beginning of a tax period.

**Footnote. Article 99 as amended by the Laws of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 19.03.2010 No. 258-IV (shall be enforced from 01.01.2011 and operate until 01.01.2016); dated 09.01.2012 No. 535-IV (the order of enforcement see Article 2); dated 12.01.2012 No. 539-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **§ 2. Deductions**

### **Article 100. Deductions**

1. Expenses of a taxpayer in connection with implementation of the activity, aimed at receiving income, shall be deducted during the determination of taxable income, except for the expenses which are not subjected to deduction in accordance with this Code.

2. In the cases, provided by this Code, the amount of expenses, subjected to deduction, shall not exceed the established standards.

3. Deductions shall be performed by a taxpayer if he/she has the documents, confirming the expenses, connected with his-her activity, aimed at receiving income. These expenses shall be deducted in the tax period when they were actually incurred, except for the expenses of forthcoming periods, which are determined in accordance with international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting.

Expenses of forthcoming periods shall be deducted in the tax period they belong to.

4. Losses, suffered by the subjects of natural monopolies, shall be deducted within the standards, established by the legislation of the Republic of Kazakhstan.

5. In case the same of expenses are provided in several Articles of the costs, these expenses shall be deducted only once during the calculation of taxable income.

6. Charged and recognized penalties, fines, forfeits shall be deducted, unless otherwise provided by Article 103, 115 of this Code.

7. Remuneration for credits (loans) received for construction, assigned in the period of construction, shall be included into the cost of the construction object.

8. Attribution to deduction of expenses for the joint activity or its part, in case of keeping the tax accounting by an authorized representative of the participant of an agreement on joint activity, shall be performed on the basis of the data, provided by this representative.

9. A taxpayer's costs for construction, purchase of fixed assets and other costs of capital nature shall be deducted in accordance with Article 116 - 125 of this Code.

10. Expenses, incurred in exploitation of the social objects, specified in paragraph 3 of Article 97 of this Code, shall be deducted.

11. If the conditions of a transaction foresee the provision by a taxpayer of quality assurance of the realized goods, executed works, provided services, the amount of actual expenses of the taxpayer for liquidation of shortcomings of the realized goods, executed works, provided services, which are incurred within the period provided for by a transaction of the warranty period, shall be deducted in accordance with this Code.

12. Unless otherwise provided by this Code, the value-added tax, which is not attributable to deduction by the data on the value-added tax declaration, shall be accounted for in the cost of the purchased goods, works and services.

A payer of the value-added tax shall have the right to attribute to deduction of the value-added tax:

1) which is not attributable to set-off in the application of proportional method of the set-off in accordance with Article 261 and 262 of this Code;

2) which is excludable from the set-off, in the case, specified in sub-paragraph 1) of paragraph 1 of Article 258 of this Code, on fixed assets, inventories, works, services, used for receiving income;

3) which is excludable from the set-off, in the case, specified in sub-paragraph 7) of paragraph 1 of Article 258 of this Code, except for the transfer of the assets to the authorized capital, which are not subjected to depreciation.

The deduction, provided by sub-paragraph 1) of the second part of this paragraph, shall be performed within the tax period where the value-added tax appears, which is not attributable to set-off in application of the proportional method of the set-off in accordance with Article 261 and 262 of this Code.

The deductions, provided by sub-paragraphs 2) and 3) of the second part of this paragraph, shall be performed within the tax period, when the value-added tax shall be excludable from the set-off.

The value-added tax, which is excludable from the set-off, in the cases, specified in sub-paragraphs 1) and 7) of paragraph 1 of Article 258 of this Code, for the assets, which are not attributable to depreciation, shall be accounted for in accordance with paragraph 4 of Article 87 of this Code.

If a payer of the corporate income tax is a subsurface user, working under a production sharing agreement (a contract) as a part of a general partnership (consortium) and fulfillment of the tax obligations for the value-added tax is entrusted to an operator in accordance with paragraph 3 of Article 271-1 of this Code, the value-added tax, specified by the second part of this paragraph, in the amount, attributed to the share of this subsurface user by the data of the operator's declaration for the value-added tax, shall be attributed to deduction.

13. In removal of a taxpayer from the register for the value-added tax, an excess of the amount of the value-added tax, attributable to set-off, over the amount of the charged value-added tax on January 1, 2009, which is not set off against the future payments of the value-added tax, not presented to refund for the turnovers, taxable at the zero rate, after fulfillment of the requirements, specified in paragraph 2 of Article 230 of this Code, shall be attributed to deductions.

14. The membership fees of the subjects of private entrepreneurship, paid by a taxpayer to the unions of private entrepreneurship in accordance with the Law of the

Republic of Kazakhstan "On Private Entrepreneurship", within the monthly calculation index, established by the Law on the Republican Budget and which operates on January 1 of an appropriate financial year, for one employee, taking into account the average number of employees during the year, shall be deducted.

14-1. The expenses of a taxpayer for the charged social contributions to the State Social Insurance Fund in the amount, which is determinable by the legislation of the Republic of Kazakhstan, shall be deducted.

15. Unless otherwise provided by this Code, the expense, which appears in the accounting in connection with change in value of assets and (or) obligations during the application of international standards of financial reporting and requirement so the legislation of the Republic of Kazakhstan on accounting and financial reporting, shall not be considered as the expense for taxation purposes, except for that subjected to payment (paid).

16. The expenses for derivative financial instruments shall be taken into account in accordance with the provisions of this Code.

16-1. The cost of gratuitously transferred for advertising goods, which does not exceed 2-fold amount of the monthly calculation index, established for an appropriate financial year by the Law of the Republic of Kazakhstan on the Republican Budget and which operates on the date of the transfer or gift of goods, shall be attributed to deduction within the tax period when the gratuitously transfer of the goods was made.

17. For the purposes of this part, in case if an entrusted administrator is entrusted by the act of foundation of entrusted administration of property with fulfillment of the tax obligation for a founder of the entrusted administration of property or beneficiary, expenses of the founder of the entrusted administration under the agreement of the entrusted administration of property of beneficiary in other cases of entrusted administration shall be included into the expenses of this entrusted administrator.

18. A taxpayer shall have the right to make adjustments to the deductions in accordance with Article 131 and 132 of this Code.

**Footnote. Article 100 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (the order of enforcement see Article 2); dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2009); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2011).**

#### **Article 101. Deduction of the amounts of compensations for business trips**

The compensations for business trips, which are attributable to deduction, shall include:

1) the actually incurred costs of a journey to the destination of a business trip and back, including covering the costs for reservation, on the basis of the documents,

which confirm the costs for journey and reservation (including an electronic ticket when there is the document, confirming the fact of its payment);

2) the actually incurred costs of rent of accommodation, including covering the costs for reservation, on the basis of the documents, confirming the expenses for rent of the accommodation and reservation;

3) daily allowances, paid to an employee for the period of the business trip, in the amount, established by the decision of a taxpayer.

The period of a business trip shall be determined on the basis of:

an order or written directions of an employer on sending of an employee to a business trip;

the number of days of business trip, based on the dates of departure to the place of business trip and return, specified in the documents, confirming the journey. If there is no such documents, the number of days of business trip shall be determined on the basis of other documents, confirming the date of departure to the place of business trip and (or) the date of return, which are provided for by the tax accounting policy of a taxpayer.

4) for obtaining an entrance visa (the cost of the visa, consular services, obligatory health insurance), on the basis of the documents, confirming the expenses incurred with respect to obtaining an entrance visa (the cost of the visa, consular services, obligatory health insurance).

**Footnote. Article 101 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2009).**

#### **Article 102. Deduction of the amounts of representation expenses**

1. The representation expenses shall include the expenses for reception and service of persons, including individuals who are not in the staff of a taxpayer, incurred:

1) for purposes of establishment and maintenance of cooperation;

2) for purposes of organizing and holding meetings of a board of directors, other management body of the taxpayer, except for executive bodies, regardless the place of holding of these meetings.

The representation expenses shall also include the costs for transportation services of the special persons, meals during the negotiations, payment for services of interpreters who are not in the staff of the organization.

The cost for leisure activities, entertainment and recreation shall not be included into the representation expenses.

2. The representation expenses shall be attributed to deductions in the amount, which does not exceed 1 percent of the amount of expenses of an employer for the income of an employee, which is taxable, specified in paragraph 2 of Article 163 of this Code.

Footnote. Article 102 as amended by the Laws of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009).

### **Article 103. Deduction for remuneration**

1. The deduction of remuneration shall be performed in accordance with the provisions of this Article.

For purposes of this Article, remunerations are:

- 1) the remunerations, specified by Article 12 of this Code;
- 2) a forfeit (a fine, penalty) under a credit (loan) agreement between the interrelated parties;
- 3) a payment for a guarantee to an interrelated party.

2. The deduction of remuneration shall be performed within the amount, calculated using the following formula:

$$(A + E) + (AC/AO) * (MC) * (B + C + D),$$

A - the amount of remuneration, specified by paragraph 1 of this Article, except for the amounts, included in indicators B, C, D, E;

B - the amount of remuneration, paid to an interconnected party, except for the amounts, included in indicator E;

C - the amount of remuneration, paid to the persons, registered in a state with preferential taxation, determined in accordance with Article 224 of this Code, except for the amounts, included in indicator B;

D - the amount of remuneration, paid to an independent party for loans, which are provided under a deposit or guarantee, surety or other form of security of interconnected parties, in case of fulfillment of the guarantee, surety or other form of security, except for the amount, included in indicator B;

E - the amount of remuneration for credits (loans), given by a credit partnership, established in the republic of Kazakhstan;

MC - marginal coefficient;

AC - average annual amount of equity capital;

AO - average annual amount of obligations;

In calculation of the amounts A, B, C, D, E the remunerations for credits (loans), received for construction and assigned within the period of construction shall be excluded.

For purposes of this Article, an independent party is a party which is the interrelated one.

3. For purposes of paragraph 2 of this Article:

- 1) an average annual amount of equity capital shall equal the arithmetical average of the amounts of equity capital at the end of each month of the reporting tax period.

For the purposes of this Article, the negative value of average annual amount of equity capital shall be recognized as equal to zero;

2) an average annual amount of obligations shall equal the arithmetical average of maximum amounts of obligations in each month of the reporting tax period. In calculation of average of annual obligations, the following charged obligations shall not be taken into account:

- the taxes, contributions and other obligatory payments to the budget;
- the salary and other income of employees;
- the income of forthcoming periods, except for the income from an interconnected party;
- the remunerations and compensations;
- the dividends;

3) the marginal coefficient for financial organizations shall equal 7, for other legal entities - 4.

4. For purposes of paragraph 2 of this Article, the amount of equity capital of a permanent establishment of a nonresident legal entity in the Republic of Kazakhstan shall be considered as if this permanent establishment is a distinct and separate legal entity and which operates independently from the nonresident legal entity, a permanent establishment of which it is.

**Footnote. Article 103 as amended by the Laws of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467 -IV (shall be enforced from 01.01.2009).**

#### **Article 104. Deduction of the paid doubtful obligations**

In case of the doubtful obligations, previously recognized as the income, were paid by a taxpayer to a creditor, the deduction of the amount of payment shall be allowed. This deduction shall be performed within the amount, previously attributed to income in the tax period when this payment was made.

The order of attribution to deduction, provided by this Article shall also be applied to the cases of payment of the obligations, which were previously recognized as income in accordance with Article 88 of this Code.

#### **Article 105. Deduction of doubtful claims**

1. The doubtful claims are the claims, which appeared as a result of realization of goods, execution of works, provision of services to legal entities and individual entrepreneurs, and to nonresident legal entities, working in the Republic of Kazakhstan through a permanent establishment, affiliate, representation office, and not satisfied during three years from the date of appearance of the claims. The claims, which



appeared for the realized goods, executed works, provided services and not satisfied due to the bankruptcy of a taxpayer - debtor in accordance with the legislation of the republic of Kazakhstan, shall also be recognized as the doubtful claims.

2. The claims, recognized as doubtful in accordance with this Code, shall be subjected to deduction.

Attribution by a taxpayer of doubtful claims to deduction shall be performed in simultaneous observance of the following conditions:

- 1) presence of the documents, confirming the appearance of obligations;
- 2) reflection of claims in the accounting on the date of attribution to deductions or attribution of these claims to expenses (write-off) in the accounting of previous periods

3. In case of recognition of a debtor's bankruptcy, in addition to the specified in paragraph 2 of this article documents, it is necessary to have a copy of a court decision on termination of bankruptcy proceeding. In observance of the above-mentioned conditions, a taxpayer shall have the right to attribute to deductions the amount of doubtful claim in the tax period in which the court decision on termination of bankruptcy proceeding entered into force.

4. The doubtful claim shall be attributed to deduction within the amount of the previously recognized income from realization of goods, execution of works, and provision of services.

#### **Article 106. Deduction of contributions to the reserve funds**

##### **Note of the RCLI!**

This wording of paragraph 1 shall operate until 01.01.2013 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (for the suspended version see an archived version No. 30 of the Tax Code of the Republic of Kazakhstan)

1. Banks and organizations, performing the certain of banking operations on the basis of the license for conduction of banking loan operations shall have the right to deduct provisions (reserves) against the following doubtful obligations and bad assets, contingent obligations, except for the assets and contingent obligations, provided in favor of interrelated parties or third persons on the obligations of the interconnected parties (except for the assets and contingent obligations of credit partnerships):

- 1) deposits, including the balance on correspondent accounts, placed in other banks ;
- 2) credits (except for the financial leasing), provided to other banks and clients;
- 3) debtor's arrears of documentary settlements and guarantees;
- 4) contingent obligations for uncovered letters of credit, issued or confirmed guarantees.



The order of attribution of assets and contingent obligations to the category of doubtful and bad ones, shall be determined by the National Bank of the Republic of Kazakhstan by the agreement with an authorized body.

**Note of the RCL!**

**Paragraph 1-1 shall be enforced from 01.01.2012 and operate until 01.01.2018.**

1-1. Banks shall have the right to deduct the amount of costs of creation of provisions (reserves) against doubtful and bad assets, provided to a subsidiary of the bank for purchase of the rights of claim for credits (loans), which are recognized as doubtful and bad assets.

The list of the granted permissions for creation or purchase of a subsidiary, purchasing doubtful and bad assets of a parental bank, shall be determined by the normative legal act of the National Bank of the Republic of Kazakhstan.

At that, the amount of costs for creation of provisions (reserves) against doubtful and bad assets, provided by the parental bank to a subsidiary for purchase from the parental bank the rights of claim for credits (loans), which are created in the order, established by the National Banks of the Republic of Kazakhstan by the agreement with an authorized body, shall be subjected to deduction. The amount of costs for creation of provisions (reserves) against doubtful and bad assets, provided to the subsidiary for purchase of the right of claim for credits (loans), which are recognized as doubtful and bad assets, shall not exceed the ratio of the amount of the transferred by banks to the subsidiaries rights of claim for credits (loans), which are recognized as doubtful assets, to the date of the activity of the subsidiary.

The order of attribution to deduction of the assets, allocated by banks to subsidiaries for purchase of the rights of claim for credits (loans), recognized as doubtful and bad assets, to the category of doubtful and bad assets, and the order of forming provisions (reserves) against the assets, which are provided by parental banks to subsidiaries, shall be established by the National Bank of the Republic of Kazakhstan by the agreement with an authorized body.

Banks shall not have the right to deduct the amount of costs for creation of provisions (reserves) against doubtful and bad assets bought out from the organization, improving the quality of credit portfolios of the second-tier banks and hundred percent of voting shares of which belong to the National Bank of the Republic of Kazakhstan.

**Note of the RCL!**

**Operation of paragraph 2 for insurance, reinsurance companies shall be suspended until 01.01.2012 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV and the taxation order operates during the suspension period....**

2. Insurance, reinsurance companies shall have the right to deduct the costs of creation of insurance reserves under insurance and reinsurance contracts. The order of

creation of insurance reserves shall be determined by the National Bank of the Republic of Kazakhstan by the agreement with an authorized body.

**Note of the RCL!**

paragraph 3 is provided in the wording of the Law of the Republic of Kazakhstan dated 26.11.2012 No. 57-V (shall be enforced from on 01.01.2013).

3. Microcredit organizations shall have the right to deduct the costs of creation of reserves against doubtful and bad micro-credits, contingent obligations for provided micro-credits, except for the micro-credits and contingent obligations for micro-credits provided in favor of interrelated parties or third persons on obligations of interconnected parties, in the amount which does not exceed 15 percent of the amount of micro-credits, given within a tax period.

The order of attribution of micro-credits and contingent obligations for the provided micro-credits to the category of doubtful and bad ones, and the order of creation of reserves shall be determined by the accounting policy of a microcredit organization, developed in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting.

**Note of the RCL!**

This wording of paragraph 4 shall operate until 01.01.2013 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (for the suspended version see an archived version No. 30 of the Tax Code of the Republic of Kazakhstan) ; provided by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV ( shall be enforced from 01.01.2013).

4. National Managing Holding and the legal entities, the main activity of which is implementation of loan operations or buyout of the rights of claim and hundred percent of voting shares (participation shares) of which belong to the National Managing Holding, shall have the right to deduct provisions (reserves) against the following doubtful and bad assets, contingent obligations, except for the assets and contingent obligations, provided for the interrelated parties or third persons on obligations of the interrelated parties (except for the assets and contingent obligations of credit partnerships):

the deposits, including the balance on correspondent accounts, placed in other banks;

the credits (except for the financial leasing), provided to banks and clients;

the debtor's arrears of documentary calculations and guarantees;

The contingent obligations for uncovered letters of credit, issued or confirmed guarantees.

The order of creation of provisions (reserves), attributed to deductions in accordance with this paragraph, the order of attribution of assets and contingent

obligations to the category of doubtful and bad ones, and the list of the legal entities, specified in this paragraph and the order of formation of this list shall be approved by the Government of the Republic of Kazakhstan.

Footnote. Article 106 as amended by the Law of the Republic of Kazakhstan dated 13.02.2009 No. 135-IV (the order of enforcement see Article 3); as amended by the Laws of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced upon the expiry of ten calendar days after its first official publication); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009).

#### **Article 107. Deductions of the costs for liquidation of mining consequences and the amounts of contribution to the liquidation funds**

1. A subsoil user, working on the basis of the contract on subsurface use, concluded in the order, established by the legislation of the Republic of Kazakhstan, shall have the right to deduct contributions to the liquidation fund from the total annual income. The specified deduction shall be allowed in the amount of contributions to a special deposit account in any bank in the territory of the Republic of Kazakhstan, made by the subsoil user within a tax period.

The amount and the order of contributions to the liquidation fund shall be established by a contract on subsurface use.

In case if an authorized state body on subsurface use reveals the fact of misuse of the assets of the liquidation fund by a subsurface user, the amount of the misused assets shall be included in the total annual income of the subsoil user of the tax period when it occurred or revealed and not eliminated, and in expiry of the limitation period, established by Article 46 of this Code.

2. The expenses of a subsoil user, which are actually incurred during a tax period for liquidation of mining consequences, shall be attributed to deductions in the tax period when they were incurred, except for the expenses, incurred at the expense of the assets of the liquidation fund, placed on the special deposit account.

3. A taxpayer shall have the right to deduct from the total annual income the amounts of contributions to the liquidation fund of polygons of waste disposal, which are transferred to the special deposit account in any second tier bank in the Republic of Kazakhstan.

The amount and the order of contribution to the liquidation fund of polygons of waste disposal, and the order of use of the fund's assets shall be established in accordance with the legislation of the Republic of Kazakhstan.

In case a body, authorized for these purposes, reveals the fact of misuse of assets of the liquidation fund of polygons of waste disposal by taxpayer, the amount of the misused assets shall be included into the total annual income of the taxpayer of the tax period when it occurred.

Footnote. Article 107 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009).

**Article 108. Deduction of the costs for research, scientific and technical works**

The costs for research and scientific and technical works, except the costs for purchase of fixed assets, their installation and other costs of capital nature, shall be attributed to deductions. The basis of deductions on these costs shall be technical task for research, scientific and technical works and the acceptance certificate of the completed phases of works.

**Article 109. Deduction of insurance bonuses and contributions of participants of insurance systems**

1. Insurance bonuses, payable or paid by a policy holder under the insurance contracts, except for the insurance bonuses under the accumulative insurance contracts, shall be attributed to deduction.

2. Banks - participants of the system of obligatory assurance of the deposits of individuals shall have the right to deduct the amounts of obligatory calendar, additional and emergency contributions, transferred in connection with assurance of the individuals' deposits.

**Note of the RCLI!**

**Operation of paragraph 3 for insurance, reinsurance companies is suspended until 01.01.2012 by the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV.**

3. Insurance, reinsurance companies, which are participants of the assurance system of insurance payments, shall have the right to deduct the amounts of obligatory, emergency and additional contributions, transferred in connection with assurance of insurance payments.

4. Cotton-processing organizations - participants of the system of assurance of obligation fulfillment for cotton receipts shall have the right to deduct the amount of annual obligatory contributions, transferred in connection with assurance of obligations fulfillment for cotton receipts.

5. Grain-receiving stations - participants of the assurance system of obligation fulfillment for grain receipts shall have the right to deduct the amounts of annual obligatory contributions, transferred in connection with assurance of obligation fulfillment for grain receipts.

**Article 110. Deduction of the expenses for assigned income of employees and other payments to individuals**

1. Expenses of an employer for the taxable income of an employee, specified in paragraph 2 of Article 163 of this Code, shall be subjected to deduction, except for:  
those, included in the primary cost of fixed assets, objects of preference;  
those, recognized as further expenses in accordance with paragraph 3 of Article 122 of this Code;  
those, included in the primary cost of the assets, which are not subjected to depreciation, in accordance with Article 87 of this Code.

Income of an employee in the form of expenses of an employer, which are aimed in accordance with the legislation of the Republic of Kazakhstan at education, advanced training or retraining of the employee on the specialty, connected with productive activity of the employer, shall also be attributed to deductions.

2. Expenses of a taxpayer in the form of payment to the individuals, specified in sub-paragraphs 2), 3), 7), 9 - 12), 14), 17) of paragraph 3 of Article 155 of this Code, shall be attributed to deduction.

3. Voluntary professional pension contributions, paid by a taxpayer under the agreements on pension provision at the expense of voluntary professional pension contributions, shall be deducted within the amount, established by the legislation of the Republic of Kazakhstan on pension provision.

**Footnote. Article 110 as amended by the Law of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2).**

**Article 111. Deductions of the costs for geologic studies and preparatory works for the extraction of natural resources and other deductions of a subsurface user**

1. The costs, which are actually incurred by a subsoil user until the date of beginning of the extraction after commercial discovery, geological studies, exploration, preparatory works for extraction of mineral resources, including the costs of evaluation, arrangement, general administrative expenses, the amounts of paid signing bonus and commercial discovery bonus, the costs of purchase of fixed assets and intangible assets and other costs which shall be attributed to deduction in accordance with this Code, shall form a separate group of depreciable assets. The specified costs shall be deducted from the total annual income in the form of depreciable contributions from the date of beginning of the extraction after commercial discovery of mineral resources. The amount of depreciable contributions shall be calculated by application of the depreciation rate, which is determined by the discretion of a subsurface user, but no more than 25 percent to the amount of accumulated costs on the group of depreciable assets, which is provided by this paragraph, at the end of a tax period.

The specified order shall also be applied in case if a subsurface user works under an extraction contract, concluded on the basis of discovery and evaluation of a deposit under an exploration contract. The amount of accumulated costs on the group of

depreciable assets, appeared at the end of the last tax period under the exploration contract shall be deducted from the total annual income in the form of depreciation charges under the extraction contract.

In case of termination of the mining activity under a separate extraction contract or joint exploration and extraction, provided that a subsoil user terminated the mining activity after the beginning of the extraction after commercial discovery, established by this Article, the cost balance of the group of depreciable assets, appeared at the end of the last tax period, shall be attributed to deduction.

For purposes of this Article, the extraction after commercial discovery shall mean:

1) under contracts on exploration, and joint exploration and extraction with unapproved reserves of mineral resources - the beginning of the extraction of mineral resources after approval of the reserves by an authorized for these purposes state body of the Republic of Kazakhstan;

2) under contracts on joint exploration and extraction, under which the reserves of mineral resources are on the state balance and approved by an expert conclusion of the state body, authorized for these purposes, including the reserves, which require additional geological study, geological and economic re-evaluation, - the beginning of the extraction of mineral resources from the date of conclusion of these contracts, if these works are provided for by the work program of a contract and coordinated with an authorized state body on study and use of mineral resources.

2. The costs, specified in paragraph 1 of this Article, shall be reduced by the amount of the following income of a subsoil user for the activity, performed under the contract on subsoil use:

1) received in the period of geological studies and preparatory works for the extraction, except for the income, subjected to exclusion from the total annual income in accordance with Article 99 of this Code;

2) received from realization of mineral resources, extracted before the date of beginning of the extraction after commercial discovery;

3) received from realization of a part of the right for subsoil use.

3. The order, established by paragraph 1 of this Article, shall also be applied to the costs of purchase of intangible assets, which are incurred by a taxpayer in connection with purchase of the right for subsoil use.

**Footnote. Article 111 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).**

**Article 112. Deduction of expenses of a subsurface user for training of Kazakh personnel and development of the social sphere of regions**



1. The expenses, which are actually incurred by a subsurface user for education of Kazakh personnel and development of the social sphere of regions, shall be attributed to deduction within the amounts, established by a contract on subsurface use.

2. The expenses, specified in paragraph 1 of this Article, which are actually incurred by a subsurface user before the beginning of the extraction after commercial discovery, shall be attributed to deductions in the order, established by Article 111 of this Code within the amounts, established by a contract on subsoil use.

3. For purposes of this Article, the expenses, which are actually incurred by a subsurface user:

1) for education of Kazakh personnel shall be recognized the amount, aimed at education, advanced training and re-training of the citizens of the Republic of Kazakhstan, and the funds transferred for these purposes to the state budget;

2) for development of the social sphere of a region shall be recognized the costs of development and maintenance of the objects of social infrastructure of the region, and the funds, transferred for these purposes to the state budget.

**Article 113. Deduction of the excess of the amount of negative disparity in exchange rate over the amount of positive disparity in exchange rate**

If the amount of negative disparity in exchange rate exceeds the amount of positive disparity in exchange rate, the amount of excess shall be attributed to deduction.

The amount of disparity in exchange rate shall be determined in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting.

**Article 114. Deduction of taxes and other obligatory payments to the budget**

1. Unless otherwise provided by this Article, in a reporting tax period, the taxes and other obligatory payments to the budget, paid to the budget of the Republic of Kazakhstan or other state are entitled to deduction:

1) in the reporting tax period, within the amounts, charged and (or) calculated for the reporting tax period and (or) the tax periods preceding the reporting tax period;

2) in the tax periods preceding the reporting tax period, within the amounts, charged and (or) calculated for the reporting tax period.

At that, the paid amounts of taxes and other obligatory payments to the budget shall be determined taking into account carrying out the set-offs in the order, established by Article 599 and 601 of this Code.

Calculation and charge of taxes and other obligatory payments to the budget shall be performed in accordance with the tax legislation of the Republic of Kazakhstan or

other state (for taxes and other obligatory payments to the budget, which are paid to the budget of other state).

2. The following shall not be attributed to deduction:

- 1) the taxes which are excluded before the determination of the total annual income ;
- 2) the corporate income tax and the taxes on income of legal entities, paid in the Republic of Kazakhstan and in other states;
- 3) the taxes which are paid in states with preferential taxation;
- 4) the excess-profit tax.

**Footnote. Article 114 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

### **Article 115. Non-deductible expenses**

Non-deductible expenses are:

- 1) the expenses, which are not connected with the activity aimed at receiving income;
- 2) the expenses for transactions with the taxpayer, who is recognized as a false enterprise on the basis of the implemented sentence or a court decision, incurred from the date of the beginning of the criminal activity, established by the court, except for the costs of transaction, recognized by the court as valid;
- 3) the expenses for transaction with the taxpayer, who is recognized as inactive in the order, specified by Article 579 of this Code, from the date of publication of the data on the official web site of an authorized body;
- 4) the expenses for the transaction (transactions), recognized by a court as the performed by a subject of private entrepreneurship without the intention to carry out business activities;
- 5) the forfeits (penalties, fines), transferrable (transferred) to the budget, except for the forfeits (penalties, fines), transferrable (transferred) to the budget under contracts on state purchases;
- 6) the amount of excess of the expenses, for which there are standards of deduction , provided by this Code, over the maximum amount of deduction, calculated using these standards;
- 7) the amount of taxes and other obligatory payments to the budget, calculated ( charged) and paid in excess of the amount, established by the legislation of the Republic of Kazakhstan or other state (for the taxes and other obligatory payments, which are paid to the budget of other state);
- 8) the expenses for purchase, production, building, mounting, installation and other expenses, included into the cost of the social objects, provided by paragraph 2 of Article 97 of this Code, and the expenses for their exploitation;



9) the cost of the property, gratuitously transferred by a taxpayer, unless otherwise provided by this Code. The amount of gratuitously executed works, provided services shall be determined in the amount of the expenses, incurred in connection with execution of these works, provision of these services;

10) the excess of the amount of the value-added tax, which is attributed to the set-off, over the amount of the charged value-added tax for a tax emerged from the taxpayer, applying Article 267 of this Code;

11) the contributions to the reserve funds, except for the deductions, provided by Articles 106, 107 of this Code;

12) the cost of the inventories, transferred under a contract of purchase (of sale) of a company as the property complex;

13) the amount of the paid additional payment of a subsoil user, who works under a production sharing contract;

14) the expenses of a taxpayer, included in accordance with Article 87 of this Code into the primary cost of the assets, which are not subjected to depreciation.

**Note of the RCL!**

**aragraph shall be enforced from 01.01.2012 and operate until 01.01.2018.**

The subsidiary of a bank, purchasing doubtful and bad assets of the parental bank shall not have the right to deduct the following expenses:

in the form of the money, received by this subsidiary in accordance with the legislation of the Republic of Kazakhstan on banks and banking operations and transferred to the bank, which conceded the rights of claim for doubtful and bad assets to this subsidiary;

which are not related to theses of activities, provided by the legislation of the Republic of Kazakhstan on banks and banking operations.

**Footnote. Article 115 as amended by the Laws of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced upon the expiry of ten calendar days after its first official publication); dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).**

### **§ 3. Deductions of fixed assets**

#### **Article 116. Fixed assets**

1. Unless otherwise provided by this Article, the fixed assets are:

1) basic assets, investments in real estate, intangible and biological assets, which are taken into account in the accounting of a taxpayer in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting and which are intended for use in the activity aimed at receiving income;

2) assets for a period of more than one year, produced and (or) obtained by the concessionaire (successor or entity specifically created exclusively by the concessionaire for the implementation of the concession agreement) under the concession agreement;

3) assets with lifetime of more than one year which are the social objects, specified in paragraph 3 of Article 97 of this Code;

4) assets with lifetime of more than one year, which are designed for use during more than one year in the activity, aimed at receiving income, received by an authorized administrator in an authorized administration under an agreement on authorized administration or under any other act on foundation of authorized administration of property.

2. The fixed assets shall not include:

1) basic assets and intangible assets which are put into operation by a subsoil user before the beginning of the extraction after commercial discovery and which are accountable for taxation purposes in accordance with article 111 of this Code;

1-1) the assets, for which calculation of depreciation charges in accordance with international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting, shall not be performed, except for biological assets and the assets, specified in sub-paragraphs 2), 3) and 4) of paragraph 1 of this Article;

2) a land;

3) the museum treasures;

4) the monuments of architecture and art;

5) a construction for public use: roads, sidewalks, boulevards, public gardens;

6) an incomplete capital construction

7) the objects, related to Film Fund;

8) the national standards of measurement units of the Republic of Kazakhstan;

9) the basic assets, the cost of which is previously attributed to deductions in accordance with the tax legislation of the Republic of Kazakhstan, which operated until January 1, 2000;

10) the intangible assets with undetermined lifetime which are recognized as such and accounted in the accounting balance of a taxpayer in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting;

11) the assets, put into operation within an investment project under the contracts with provision of the right of additional deductions form the total annual income, concluded before January 1, 2009 in accordance with the legislation of the Republic of Kazakhstan on investments;

11-1) the assets, put into operation within an investment project under the contracts with provision of exemption from payment of the corporate income tax, concluded before January 1, 2009 in accordance with the legislation of the Republic of Kazakhstan on investments, in a part of the amount, attributed to deduction before January 1, 2009;

12) objects of preferences during three tax periods following the tax period of putting these objects in operation, except for the cases, provided by paragraph 13 of Article 118 of this Code;

13) assets with lifetime of more than one year which are the social objects, provided by paragraph 2 of Article 97 of this Code;

**Footnote. Article 116 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2011).**

#### **Article 117. Determination of the cost balance**

1. Accounting of fixed assets shall be performed for the groups, formed in accordance with theification, established by an authorized state body on technical regulation and metrology in the following order:

No. in order	No. groups	Name of the fixed assets
1	2	3
1.	I	Buildings, constructions, except for oil, gas wells and transmission devices
2.	II	Machinery and equipment, except for Oil and Gas machinery and equipment, and computers and equipment for information processing
3.	III	Computers, software and equipment for information processing
4.	IV	Fixed assets, which are not included into other groups, including oil, gas wells, transmission devices, machinery and equipment of Oil and Gas

Each object of group I shall equate with a subgroup.

2. The final amounts, called the costs balance of a subgroup (group I), a group, shall be determined for each subgroup (group I), group at the end and the beginning of a tax period.

The cost balance of group I shall consist of the cost balances of subgroups for each object of basic means and cost balance of a subgroup, formed in accordance with sub-paragraph 2) of paragraph 3 of Article 122 of this Code;

3. The residual value of fixed assets of group I is the cost balance of subgroups at the beginning of a tax period, taking into account the adjustments made in the tax period in accordance with Article 122 of this Code.

4. Fixed assets shall be accounted for:

1) group I - in the context of the fixed assets, each of which forms a separate subgroup of the cost balance of a group;

2) groups II, III and IV - in the context of the cost balances of groups.

5. The received fixed assets shall increase the appropriate balances of subgroups (for group I), groups (for the rest of the groups) on the cost, determined in accordance with Article 119 of this Code in the order, established by this Article.

6. The retired fixed assets shall decrease the appropriate balances of subgroups (for group I), groups (for the rest of the groups) on the cost, determined in accordance with Article 119 of this Code in the order, established by this Article.

7. The cost balance of a subgroup (group I), a group at the beginning of a tax period shall be determined as:

the cost balance of a subgroup (group I), a group at the end of the previous tax period

minus

the amount of depreciation charges, calculated in the previous tax period,

minus

the adjustments, made in accordance with Article 121 of this Code.

The value of the cost balance of a subgroup (group I), a group at the beginning of a tax period shall not be negative.

8. The cost balance of a subgroup (group I), a group at the end of a tax period shall be determined as:

the cost balance of a subgroup (group I), a group at the end of a tax period

plus

the received at the tax period fixed assets

plus

the retired at the tax period fixed assets

plus

the adjustments made in accordance with paragraph 3 of Article 122 of this Code.

9. An entrusted administrator shall be obliged to form separate cost balances of group (subgroups) in the part of the cost, which is not attributed to deductions before January 1, 2009, on the fixed assets, put into operation before and (or) after January 1, 2009 within an investment project under the contracts with provision of exemption

from the corporate income tax, concluded before January 1, 2009 in accordance with the legislation of the Republic of Kazakhstan on investments.

Footnote. Article 117 as amended by the Laws of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 21.07.2011 No. 470-IV (shall be enforced from 01.01.2012).

#### **Article 118. Receipt of the fixed assets**

1. Fixed assets upon the receipt, including those, under a contract on financial leasing and by transfer from the inventories, shall increase the cost balance of groups (subgroups) by the primary cost of these assets.

The recognition for taxation purposes of receipt of the fixed assets shall mean the inclusion of the received assets in the fixed assets.

2. Unless otherwise provided by this Article, the primary cost of the fixed assets shall include the expenses, incurred by a taxpayer until the date of putting the fixed asset into operation. These expenses shall include the costs of purchase of a fixed asset, its production, building, amounting and installation, and other costs increasing its value in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting, except for:

- the costs (expenses), which are not subjected to deduction in accordance with this Code;

- the costs (expenses), attributed to deductions in accordance with the second part of paragraph 12 of Article 100 of this Code;

- the costs (expenses), which a taxpayer shall have the right to deduct on the basis of paragraphs 6 and 13 of Article 100 of this Code, as well Articles 100-114 of this Code; depreciation charges;

- the costs (expenses), emerged in the accounting and are not considered as the costs for taxation purposes in accordance with paragraph 15 of Article 100 of this Code.

3. Unless otherwise provided by this Code, the primary cost of a fixed asset, received via the transfer from the inventories or the assets, designed for selling, shall be its balance cost, determined on the date of this receipt in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting.

The primary cost of a fixed asset, received via the transfer from the inventories or the assets, designed for selling, the recognition of which as a fixed asset was previously suspended, shall be its balance cost, which is determined on the date of its receipt in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and

financial reporting, not exceeding the cost, specified in paragraph 2 of article 119 of this Code.

4. Upon the gratuitous receipt of the fixed assets, the primary cost of the fixed assets shall be the balance cost of the received assets, specified in the transfer and acceptance act of these assets, taking into account the actual costs which increase the value of these assets during the initial recognition in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting, except for the costs (expenses) which are not included in the primary cost of the fixed assets on the basis of paragraph 2 of this Article.

5. In receipt as a contribution to the authorized capital of the primary costs of fixed assets is the cost of the contribution, specified in the founding documents of a legal entity, including the actual costs which increase the value of these fixed assets during the initial recognition in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting, except for the costs (expenses) which are not included in the primary cost of the fixed assets taking into account the provisions of paragraph 2 of this Article.

6. Upon the receipt of fixed assets in connection with the reorganization by merger, accession, separation or segregation of a taxpayer, the primary cost of these fixed assets shall be the balance cost, specified in a transfer act or a separation balance, except for the case, provided by the second part of this paragraph taking, into account the actual costs which increase the value of these assets during the initial recognition in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting, except for the costs (expenses), which are not included in the primary cost of the fixed assets on the basis of paragraph 2 of this Article.

The cost balance of a subgroup (group) of the newly formed legal entity, created via merger or a legal entity, which accepted other legal entity, shall increase by the amount of the transferred fixed assets on the data of the tax accounting in case that this cost is reflected in the transfer act in accordance with the second part of paragraph 6 of Article 119 of this Code.

7. In Upon the receipt of the fixed assets by an entrusted administrator into an entrusted administration, the primary cost of these fixed assets shall be:

1) in case if the assets of a transferor were fixed, - the cost, determined in accordance with paragraph 10 of Article 119 of this Code;

2) in other cases - the costs, determined by the date of the act of transfer and acceptance of these assets.

8. Upon the receipt of the fixed assets from an entrusted administrator in connection with termination of the obligations under an entrusted administration, the primary cost of these fixed assets shall be:

1) in case if these assets of the entrusted administrator were fixed, - the cost, determined in accordance with paragraph 11 of Article 119 of this Code;

2) in other cases - the cost, determined in accordance with paragraph 10 of Article 119 of this Code and reduced by the amount of depreciation charges. At that, the depreciation charges shall be calculated for each tax period of an entrusted administration, preceded the reporting tax period, based on the marginal depreciation rate, provided by this Code for an appropriate group of fixed assets, applied to the primary cost, which is reduced by the amount of depreciation charges for previous periods.

9. Upon the receipt of the fixed assets by concessionaire (legal successor or a legal entity, specially created solely by the concessionaire for realization of a concession contract) under a concession contract, the primary cost of these fixed assets shall be the cost, which is determined in accordance with paragraph 12 of Article 119 of this Code, and in cases of absence of this cost - the cost which is determined by the Government of the Republic of Kazakhstan.

10. Upon the receipt of the fixed assets by a grantor during the termination of a concession contract, the primary cost of these fixed assets shall be the cost, determined in accordance with paragraph 13 of Article 119 of this Code.

11. In transfer of a taxpayer, applying the special tax regime for subjects of small business on the basis of the simplified declaration, to a calculation of the corporate income tax in accordance with Article 81 - 149 of this Code, the primary cost of the fixed assets shall be the balance cost of basic assets, investments in real estate, intangible and biological assets, used in the special tax regime, determined in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting not taking into account depreciations and re-evaluations on the date of the transfer to the generally accepted order of taxes calculation.

12. The fixed assets of group I, which were previously replaced in connection with temporary termination of use in the activity, aimed at receiving income, shall be included in the cost balance of group I of the fixed assets in the tax period, when these fixed assets were put into operation for the activity, aimed at receiving income, at the cost of the replacement, taking into account those, attributable to increase of value of these assets in accordance with Article 122 of this Code.

13. The assets, for which preferences are withdrawn, shall be included in the cost balance of a group (subgroup) in the cases, specified in paragraph 4 of Article 125 of

this Code, at the primary cost, determined in the order, established by paragraph 2 of this Article.

14. The object of preferences after expiration of three tax periods following the tax period of putting this object into operation, except for the assets, specified in paragraph 13 of this Article, shall be included in the cost balance of a group (subgroup) in the case, specified in paragraph 6 of Article 125 of this Code, at zero cost.

**Footnote.** Article 118 as amended by the Laws of the Republic of Kazakhstan dated 04.07.2009 No. 167-IV (shall be enforced from 01.01.2009); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

### **Article 119. Replacement of the fixed assets**

1. Unless otherwise provided by this Article, the retirement of the fixed assets is termination of recognition of these assets in the accounting as the basic assets, investments in real estate, intangible and biological assets, except for the cases of termination of the recognition as a result of full depreciation and (or) devaluation, and the transfer to the assets designed for selling.

Recognition for taxation purposes of retirement of the fixed assets shall mean the exclusion of the replaced assets from the fixed assets.

2. Unless otherwise provided by this Article, the cost balance of a subgroup (group) shall be reduced by the balance cost of the replaced fixed assets, determined in accordance with the international standards of financial reporting and requirement of the legislation of the Republic of Kazakhstan on accounting and financial reporting on the date of replacement.

3. In realization of the fixed assets, including those under a contract of leasing, without their transfer to the inventories, the cost balance of a subgroup (group) shall be decreased by the cost of realization, except for the value-added tax.

If a sale contract, including a sale contract of company as the property complex, does not determine the cost of realization in the context of the fixed assets objects, the cost balance of the subgroup (group) shall decrease by the balance cost of the replaced fixed assets, determined in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting on the date of realization.

4. In gratuitous transfer of the fixed assets, the cost balance of a subgroup (group) shall be decreased by the balance cost of the transferred assets according to the data of accounting, specified in the transfer and acceptance act of these assets.



5. In transfer of the fixed assets as a contribution to the authorized capital, the cost balance of a subgroup (group) shall be decreased by the cost, determined in accordance with the civil legislation of the Republic of Kazakhstan.

6. Unless otherwise provided by this Code, in replacement of the fixed assets as a result of the reorganization by merger, accession, separation or segregation, the cost balance of a subgroup (group) of a legal entity, undergoing reorganization, shall decrease by the balance cost of the transferred assets, specified in the transfer act or the separation balance.

In the reorganization by merger, accession, the taxpayers shall have the right for purposes of tax accounting to reflect in the transfer act the cost of the transferred fixed assets according to the data of tax accounting of a legal entity, undergoing reorganization:

1) on fixed assets of group I - residual value of the fixed assets, calculated in the order, provided by paragraph 3 of Article 117 of this Code;

2) on the fixed assets of groups II, III, IV provided the transfer of all fixed assets of a group - the amount of cost balance of the group, calculated in the order, established by paragraph 8 of Article 117 of this Code.

The cost balance of a subgroup (group) of a legal entity, undergoing reorganization by merger, accession shall decrease by the amount of the transferred fixed assets according to the data of the tax accounting, reflected in the transfer act in accordance with this paragraph.

7. In withdrawal of property by a founder, a participant, the cost balance of a subgroup (group) shall decrease by the cost, determined in an agreement between the founders, participants.

8. In loss, destruction, damage of fixed assets:

1) in case of insurance of the fixed assets - the cost balance of a subgroup (group) shall decrease by the cost equal to the amount of insurance payments to a policy holder by an insurance company in accordance with an insurance contract.

2) in absence of insurance of the fixed assets of group I - the cost balance of appropriate groups shall decrease by the residual value of the fixed assets, calculated in the order, specified by paragraph 3 of Article 117 of this Code;

3) in absence of insurance of the fixed assets, except for the fixed assets of group I, deduction shall not be reflected.

9. When a lessee returns an object of financial leasing to a lessor, the cost balance of a subgroup (group) shall decrease by the positive disparity between the cost of purchase of the financial leasing object and the amount of leasing payments for the period from the date of return of the leasing object, decreased by the amount of remuneration for financial leasing.

10. In transfer of the fixed assets to an entrusted administration, the cost balance of a group (subgroup) shall decrease:

- 1) for group I - by the residual value of the fixed assets;
- 2) for groups II, III, IV - by the balance cost, determined in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting.

11. An entrusted administrator in termination of the obligation for entrusted administrator shall decrease the cost balance of a group (subgroup):

- 1) for group I - on the residual value of the fixed assets, determined in the order, specified in paragraph 3 of Article 117 of this Code;

- 2) for groups II, III, IV:

in transfer of all assets of a group - on the amount of the cost balance of a group, calculated in the order, specified by paragraph 8 of Article 117 of this Code;

in other cases - on the primary cost of the transferred assets, determined in accordance with Article 118 of this Code and decreased by the amount of depreciation charges. At that, the depreciation charges shall be calculated for each tax period of an entrusted administration, which precede the reporting tax period on the basis of the marginal rate of depreciation, specified in this Code for an appropriate group of the fixed assets, applied to the primary cost, reduced by the amount of depreciation charges for the previous period.

12. In transfer of the fixed assets to a concessionaire under a concession agreement, the cost balance of a subgroup (group) of a grantor shall decrease:

- 1) for group I - by the residual value of the fixed assets, calculated in the order, provided by paragraph 3 of Article 117 of this Code;

- 2) for groups II, III, IV - by the cost, determined in the order, established by the Government of the Republic of Kazakhstan.

13. In transfer of the fixed assets to a grantor during the termination of a concession contract, the cost balance of a group (subgroup) of a concessionaire shall decrease:

- 1) for group I - by the residual value of the fixed assets, calculated in the order, provided by paragraph 3 of Article 117 of this Code;

- 2) for groups II, III, IV - for the cost, determined in the order, established by the Government of the Republic of Kazakhstan.

14. In temporary termination of use of the fixed assets in the activity, aimed at receiving income:

- 1) for group I - the cost balance of appropriate subgroups shall decrease by the residual value of the fixed assets, calculated in the order, provided by paragraph 3 of Article 117 of this Code. The decrease of the cost balance of the subgroup shall be performed in the case when the tax period of the temporary withdrawal of the assets

from operation and its return into operation after the temporary termination of use do not match.

2) for groups II, III, IV the deduction shall not be reflected.

Temporary termination of use of the fixed assets shall include the temporary replacement of the assets without termination of recognition of these assets in the accounting as the basic assets, investments in real estate, intangible and biological assets.

**Footnote. Article 119 as amended by the Laws of the Republic of Kazakhstan dated 04.07.2009 No. 167-IV (shall be enforced from 01.01.2009); dated 05.07.2011 No. 452 -IV (shall be enforced from 01.01.2012).**

## **Article 120. Calculation of depreciation charges**

1. The cost of fixed assets shall be attributed to deduction via calculation of depreciation charges in the order and under conditions, established by this Code.

2. Unless otherwise provided by this Article, the depreciation charges for each group shall be determined via application of depreciation standards, specified in the accounting policy, which shall not exceed the marginal rates, established by this paragraph, to the cost balance of a subgroup, a group at the end of a tax period:

No. in order	No. of groups	Name of the fixed assets	Marginal rate of depreciation (%)
1	2	3	4
1.	I	Buildings, constructions, except for oil, gas wells and transmission devices	10
2.	II	Machinery and equipment, except for the machinery and equipment of Oil and Gas, and computers and equipment for information processing	25
3.	III	Computers, software and equipment for information processing	40
4.	IV	Fixed assets, which are not included in other groups, including oil, gas wells, transmission devices, machinery and Oil and Gas equipment	15

2-1. The depreciation charges for the cost balances of the groups (subgroups), specified in paragraph 10 of Article 117 of this Code shall be determined via

application of the marginal rates of depreciation, specified by this Article, to these cost balances of the groups (subgroups) at the end of a tax period.

3. For buildings, constructions, except for oil, gas wells and transmission devices, the depreciation payments shall be determined for each object separately.

4. In case of liquidation or reorganization of a taxpayer, the transfer of the legal entity, applying the special tax regime for subjects of small business on the basis of the simplified declaration, to the calculation of the corporate income tax in accordance with Article 81-149 of this Code, and in termination of application of the special tax regime for legal entities-producers of agricultural products, aquaculture production (fish farming) and the rural consumer cooperatives, the depreciation charges shall be adjusted on the period of the activity in a tax period.

5. A taxpayer shall have the right to recognize buildings and constructions for production purposes, machinery and equipment corresponding with the provision of paragraph 2 of Article 123 of this Code, first put into operation in the Republic of Kazakhstan:

as the fixed assets and attribute their cost to deductions in the order, established by Article 116 - 122 of this Code, or

as the objects of preferences and attribute their cost to deductions under the conditions and in the order, established by Article 123 - 125 of this Code.

6. A subsoil user shall have the right to calculate depreciation on double rate of depreciation for the fixed assets, first put into operation in the Republic of Kazakhstan, if these fixed assets were used for receiving the total annual income of no less than three years. These fixed assets shall be accounted separately from the cost balance of a group in the first tax period of exploitation.

The provisions of this paragraph shall be applied to the fixed assets only which simultaneously correspond with the following conditions:

1) they are the assets, which have the direct cause-effect relation with carrying out the activity under a contract (contracts) on subsurface use because of the specifics of their use;

2) the further expenses, incurred by a subsoil user for these assets, shall not be distributed between the activity under a contract (contracts) for subsoil use and non-contract activity in the tax accounting.

**Footnote.** Article 120 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 21.01.2010 No. 242-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 470-IV (shall be enforced from 01.01.2012).

## **Article 121. Other deductions of the fixed assets**

1. After retirement, except for the gratuitous transfer, of a fixed asset of a subgroup (group), the amount of the cost balance of the subgroup at the end of a tax period shall be recognized as the loss from retirement of the fixed assets of group I.

The cost balance of this subgroup shall be equated with zero and shall not be subjected to deduction.

2. After retirement of all fixed assets of a group (for groups II, III, IV), the cost balance of the appropriate group at the end of a tax period shall be subjected to deduction, unless otherwise provided by this Article.

3. In gratuitous transfer of all fixed assets of a subgroup (for group I) or a group (for groups II, III, IV), the cost balance of the appropriate subgroup or group at the end of a tax period shall be equated with zero and shall not be subjected to deduction.

4. A taxpayer shall have the right to deduct the amount of the cost balance of a subgroup (group) at the end of the tax period, which is less than 300-fold amount of monthly calculation index, established by the Law on the Republican Budget and which operates on the last date of a tax period.

**Footnote. Article 121 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (the order of enforcement see Article 2).**

## **Article 122. Deduction of further expenses**

1. Further expenses are the actual expenses, incurred during exploitation, repair, reconstruction, modernization, maintenance and liquidation of the assets, specified in paragraph 2 of this Article, including those, incurred at the expense of the reserve funds of a taxpayer, except for the expenses of subsoil users, incurred at the expense of the liquidation fund, contributions to which are attributed to deductions in accordance with Article 107 of this Code.

2. Further expenses, except for those, specified in paragraph 3 and 6 of this Article and the further expenses which, in accordance with paragraph 4 of Article 87 of this Code, increase the primary cost of the assets, which are not subjected to depreciation, shall be subjected to deductions in the tax period when they actually incurred.

The provision of this paragraph shall be applied to the following assets:

1) fixed assets and (or)

2) basic assets, investments in real estate, intangible and biological assets which are taken into account in the accounting of a taxpayer in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting and are designed for use in the activity, aimed at receiving income, except for the assets, specified:

in sub-paragraph 1) of this paragraph;

in sub-paragraph 1) of paragraph 2 of Article 116 of this Code - in the period from the date of the beginning of the extraction after commercial discovery;

in sub-paragraphs 6), 13) of paragraph 2 of Article 116 of this Code.

3. Unless otherwise provided by this Article, the amount of further expenses, subjected in the accounting to attribution to increase of the balance cost of the assets, specified in sub-paragraph 12) of paragraph 2 of Article 116 of this Code, sub-paragraph 1) of paragraph 2 of this Article, and the further expenses, specified in paragraph 5 of Article 125 of this Code:

1) shall increase the cost balance of a group (subgroup) which is appropriate to the of an asset;

2) shall form an appropriate cost balance of a group (subgroup) which is appropriate to the of an asset at the end of current tax period, if there is no cost balance of a group (subgroup) which is appropriate to the of an asset.

Further expenses, provided by this paragraph, shall be recognized for taxation purposes in the tax period when they were attributed to the growth of the balance cost of assets in the accounting, except for the case, provided by paragraph 12 of Article 118 of this Code.

4. The amount of further expenses, incurred by a lessee in respect of the leased assets shall be deducted.

5. Further expenses for reconstruction, modernization of buildings and construction of buildings and for production purposes, machinery and equipment shall be subjected to deductions via the choice of the taxpayer, who has the right to apply the investment tax preferences, in accordance with paragraph 3 of this Article or Articles 123 - 125 of this Code.

6. For the assets, specified in sub-paragraph 1) of paragraph 2 of Article 116 of this Code, the amount of further expenses, incurred from the date of commercial discovery of mineral resources, which is subjected to attribution in the accounting to the growth of the balance cost of these assets, shall increase the amount of the accumulated expenses for the group of depreciable assets, specified in paragraph 1 of Article 111 of this Code at the end of a tax period, including the case when this amount equals zero at the end of a tax period.

The further assets, provided by this paragraph, shall be recognized for taxation purposes in the tax period when they were attributed in the accounting to increase of the balance cost of the assets.

**Footnote.** Article 122 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).

## **§ 4. Investment tax preferences**

### **Article 123. Investment tax preferences**

1. Investment tax preferences (hereinafter - preferences) shall be applied upon the choice of a taxpayer in accordance with this Article and Articles 124, 125 of this Code and consist of attribution to deductions of the cost of preference objects and (or) further expenses for reconstruction, modernization.

Legal entities of the Republic of Kazakhstan, except for those, specified in paragraph 6 of this Article, shall have the right to apply preferences.

2. Objects of preferences shall include the buildings and constructions for production purposes, machinery and equipment first put into operation in the Republic of Kazakhstan, which correspond with the following conditions during no less than three tax periods following the reporting tax period:

1) they are the assets, specified in sub-paragraph 2) of paragraph 1 of Article 116 of this Code, or they are basic assets;

2) they are used by a taxpayer, who applied preferences in the activity, aimed at receiving income;

3) they are not the assets, which have the direct cause-effect relation with carrying out the activity under a contract (contracts) on subsurface use because of the specifics of their use;

4) the expenses, incurred by a subsoil user for these assets shall not be subjected to distribution between the activity under a contract (contracts) on subsoil use and non-contract activity in the tax accounting;

**Note of the RCL!**

**Sub-paragraph 5) shall be enforced from 01.01.2012.**

5) they are not the assets, put into operation within an investment project under the contracts, concluded before 1 January, 2009 in accordance with the legislation of the Republic of Kazakhstan on investments.

3. Further expenses for reconstruction, modernization of buildings and constructions for production purposes, machinery and equipment shall be attributed to deductions in the tax period when they are actually incurred, when these buildings and constructions, machinery and equipment simultaneously correspond with the following conditions:

1) they shall be taken into account in the accounting of a taxpayer as the basic means in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting;

2) they are designed for use in the activity, aimed at receiving income, during no less than three tax periods following the tax period of putting into operation after the reconstruction, modernization;

3) they are temporarily taken out of operation for the period of reconstruction, modernization;

4) they are not the assets, which have the direct cause-effect relation with carrying out the activity under a contract (contracts) on subsoil use because of the specifics of their use;

5) the expenses, incurred by a subsurface user for these assets, shall not be subjected to distribution between the activity under a contract (contracts) on subsoil use and non- contract activity in the tax accounting.

For the purposes of application of preferences, reconstruction, modernization of a basic asset is the of further expenses, the result of which simultaneously is:

the change, including renovation, of the construction of the basic asset;

the increase of lifetime of the basic asset for more than three years;

the improvement of technical characteristics of the basic asset in comparison with its technical characteristics at the beginning of the calendar month when this basic asset was temporarily taken out of operation to perform reconstruction, modernization;

4. For the purposes of application of preferences, the buildings for production purposes shall include nonresidential buildings (parts of nonresidential buildings), except for:

the commercial buildings (parts of such buildings);

the buildings for cultural and entertainment purpose (parts of such buildings);

the buildings of hotels, restaurants and other buildings for short-stay accommodation, catering (parts of such buildings);

the office buildings (parts of such buildings);

the garages for motor vehicles (parts of such buildings);

the parking (part of a building).

For the purposes of application of preferences, the constructions for production purposes shall include the constructions, except for the construction of sports and recreation, cultural and entertainment facilities, hotel and restaurant purpose, for administrative purposes, for parking.

5. For the purposes of application of preferences, a newly constructed building (a part of the building) first put into operation in the Republic of Kazakhstan is:

during construction upon conclusion of a building contract - transfer of the construction object by a builder to a client after signing the act on commissioning of the building (a part of the building) by the State Acceptance Commission;

in the other cases - when signing the act on commissioning of the building (a part of the building) by the State Acceptance commission;

6. The taxpayers shall not have the right to apply preferences if they observe one or more of the following conditions:

1) taxation of a taxpayer shall be performed in accordance with part 5 of this Code;



2) a taxpayer shall perform production and (or) realization of the excisable goods, specified in sub-paragraphs 1) - 4) of Article 279 of this Code;

3) a taxpayer shall apply the special tax regime, provided by Chapter 63 of this Code.

**Footnote.** Article 123 as amended by the Law of the Republic of Kazakhstan dated 01.12.2008 No. 100-IV (shall be enforced from 01.01.2012); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2012).

#### **Article 124. Application of preferences**

1. Application of preferences shall be performed by the following methods:

- 1) the method of deduction after putting an object into operation;
- 2) the method of deduction before putting an object into operation;

2. Application of the method of deduction after putting an object into operation is the deductions of the primary cost of objects of preferences, as determined in accordance with paragraphs 2 and 3 of Article 125 of this Code, in equal shares during the first three tax periods of exploitation or the flat payment in the period of putting into operations.

3. Application of the method of deduction before putting an object into operation is the deductions of the costs of building, production, purchase, mounting and installation of objects of preferences, and the costs of reconstruction, modernization of buildings for production purposes, machinery and equipment before their putting into operation in the tax period when these costs were actually incurred.

4. The Preferences shall be cancelled from the moment of their application and a taxpayer shall be obliged to reduce deductions by the amount of preferences for each tax period when they were applied, if during three tax periods, following the period of commissioning of buildings and constructions for production purposes, machinery and equipment, for which the preferences were applied, one of the following cases occurs:

1) violation of the provisions of paragraphs 2 - 4 of Article 123 of this Code by a taxpayer;

2) there is a case when a taxpayer, who applied the preferences or his/her legal successor, in the case of reorganization of this taxpayer, meets the provisions of paragraph 6 of Article 123 of this Code.

#### **Article 125. Specifics of the tax accounting of the objects of preferences**

1. A taxpayer shall perform the accounting of objects of preferences and further expenses for reconstruction, modernization of buildings and constructions for production purposes, machinery and equipment separately from the fixed assets during three tax periods following the tax period of commissioning the buildings and

constructions for production purposes, machinery and equipment, for which the preferences were applied, unless otherwise provided by this Article.

The objects of preferences and the further expenses for reconstruction, modernization of buildings and constructions for production purposes, machinery and equipment shall be accounted in the context of each object, for which a preference was applied.

2. The primary cost of the object of preference, which is a basic asset, shall include the expenses, incurred by a taxpayer before the date of commissioning this object. These expenses shall include the costs of the object, its production, building, mounting and installation, and other costs increasing its value in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting, except for:

- the costs (expenses), which are not subjected to deductions in accordance with this Code;

- the costs (expenses), attributed to deductions in accordance with the second part of paragraph 12 of Article 100 of this Code;

- the costs (expenses), which a taxpayer shall have the right to deduct according to the paragraphs 6 and 13 of Article 100 of this Code and Articles 101 - 114 of this Code ;

- depreciation charges;

- the costs (expenses), which appear in the accounting and which are not considered as the expense for taxation purposes in accordance with paragraph 15 of Article 100 of this Code.

3. The primary cost of an object of preferences, which is the asset, specified in sub-paragraph 2) of paragraph 1 of Article 116 of this Code, shall be determined in the order, specified in paragraph 9 of Article 118 of this Code.

4. The assets, for which preferences were cancelled, shall be recognized as the fixed assets from the date of putting them into operation in accordance with the provisions of paragraph 1 of Article 116 of this Code and shall be included in the cost balance of a group (subgroup), appropriate to the of this asset in the order, specified by Articles 117 and 118 of this Code;

5. In cancellation of preferences for further expenses for reconstruction, modernization of buildings and constructions for production purposes, machinery and equipment, these expenses shall be taken into account in the order, defined by paragraph 3 of Article 122 of this Code.

6. An object of preferences after three tax periods, following the tax period of putting the object of preference into operation, except for those, specified in paragraph 4 of this Article, shall be recognized as the fixed asset in accordance with the provisions of paragraph 1 of Article 116 of this Code and shall be included in the cost

balance of a group (subgroup), appropriate to the of this asset in the order, provided by Articles 117 and 118 of this Code.

**Footnote.** Article 125 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

## **§ 5. Derivative financial instruments**

### **Article 126. Basic provisions**

1. In case of appliance of a derivative financial instrument for the purposes of hedging or in implementation by delivering the basic asset, the tax accounting of the derivative financial instrument shall be performed in accordance with Articles 129, 130 of this Code.

2. The Loss from derivative financial instruments shall be determined in accordance with Article 136 of this Code and shall be transferred in accordance with Article 137 of this Code, taking into account Articles 129, 130 of this Code.

### **Article 127. Income from derivative financial instrument, except for a swap**

1. The Income from derivative financial instruments, except for the swap, is an excess of inpayments over the expenses, which shall be determined in accordance with this Article. For purposes of tax accounting, the income shall be determined at the date of implementation or early termination of a derivative financial instrument.

2. The inpayments for a derivative financial instrument are the payments which are receivable (received) for this derivative financial instrument in the intermediate calculations during the period of a transaction and on the date of implementation or early termination of the derivative financial instrument.

3. The Expenses from a derivative financial instrument are the payments which are payable (paid) for this derivative financial instrument in the intermediate calculations during the period of a transaction and on the date of implementation or early termination of the derivative financial instrument.

### **Article 128. Income from a swap**

1. The income from a swap is an excess of inpayments over the expenses, which shall be determined in accordance with this Article. For the purposes of tax accounting, the income from a swap shall be determined at the end of the reporting tax period.

2. The inpayments for a swap are the payments which are receivable (received) for this swap during the reporting tax period.

3. The Expenses from a swap are those payable (paid) during the reporting tax period for this swap.

## **Article 129. Specifics of the tax accounting for hedging operations**

1. Hedging are the operations with derivative financial instruments, performed in order to reduce potential losses as a result of unfavorable change in value or other index of a hedging object. The hedging objects are the assets and (or) obligations, and money flows, related to these assets and (or) obligations or with the expected transactions.

2. In order to confirm reasonability of attributing the operations with derivative financial instruments to the hedging operations, a taxpayer, when submitting the tax declarations, shall submit the calculation, confirming that performance of these operations leads (may lead) to reduction of potential losses (lost profits) on transactions with a hedging object.

3. The income or loss from hedging operations shall be taken into account for the purposes of tax accounting in accordance with the provisions of this Code, determined for a hedging object.

4. The income or loss from hedging operations shall be recognized in the tax period , for which it is determined for the purposes of tax accounting.

## **Article 130. Specifics of the tax accounting in implementation by a delivery of the basic asset**

1. If implementation of a derivative financial instrument occurs by a purchase or realization of the basic asset, the expenses, which are payable (paid), and the payments, which are receivable (received) as a result of purchase or realization of this basic asset, shall not be attributed to the expenses and inpayments for derivative financial instruments.

2. The inpayments and expenses from the operations, specified in paragraph 1 of this Article, shall be taken into account for tax accounting purposes in accordance with the provisions of this Code, which are applied to the income and deductions for the basic asset.

**Footnote. Article 130 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).**

## **§ 6. Adjustments to income and deductions**

### **Article 131. Basic provisions**

Adjustment is an increase or reduction of the amount of income or deduction of the reporting tax period within the amount of an earlier recognized income or deduction in the cases, established by Article 132 of this Code.

## **Article 132. Adjustments to income and deductions**

1. Income or deductions shall be adjusted in the cases of:

- 1) of full or partial return of goods;
- 2) of changes of the conditions of a transaction;
- 3) of change in the cost, compensation for the realized or purchased goods, executed works, provided services;
- 4) of mark downs, discounts on sales;
- 5) of change in the amount, payable in the national currency for the realized or purchased goods, executed works, provided services on the basis of the contract conditions;
- 6) of cancellation of the claim, to which income adjustment is made in accordance with Paragraph 2 of this Article.

2. Adjustment to income shall be made by a taxpayer-creditor in cancellation of a claim from:

- a legal entity;
- an individual entrepreneur;
- a nonresident legal entity, working in the Republic of Kazakhstan through a permanent establishment, on the requirements, attributed to the activity of this permanent establishment.

The adjustment to income, provided by this paragraph shall be made in the cases of :

- 1) of failure to demand by a taxpayer-creditor of the satisfaction of the claim upon the liquidation of a taxpayer-debtor on the date of approval of its liquidation balance;
- 2) of cancellation of a claim under the implemented court decision;

The Adjustment shall be made when the following conditions are observed:

- 1) presence of the primary document, confirming the existence of a claim;
- 2) reflection of a claim in the accounting on the date of the adjustment to income or attribution to the expenses (write-off) in the accounting in the previous periods.

The provisions of this paragraph shall not be applied to the claims recognized as doubtful in accordance with this Code.

3. Adjustment to income shall not be made during reduction of the amount of claims in connection with their transfer under a sale contract of a company as the property complex.

4. Adjustment to income and deductions shall be made in the tax period when the cases, specified in paragraph 1 of this Article, occurred.

**Footnote. Article 132 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).**

## **Chapter 12. REDUCTION OF TAXABLE INCOME AND TAXATION EXEMPTION OF CERTAIN GROUPS OF TAXPAYERS**

### **Article 133. Reduction of taxable income**

1. A taxpayer shall have the right to reduce the taxable income by the followings of expenses:

1) in the total amount which does not exceed 3 percent of taxable income:

the amount of excess of the actually incurred expenses over the receivable (received) income in exploitation of the social objects, provided by paragraph 2 of Article 97 of this Code;

the cost of the property, transferred to a non-commercial organization or the organizations, working in the social sphere on a gratuitous basis. The cost of gratuitously executed works, and provided services shall be determined in the amount of expenses, incurred in connection with execution of works, provision of services. The cost of the transferred property is specified in the act of transfer and acceptance of this property.

sponsorship and charity when having the decision of the taxpayer based of a request from the person, receiving the support;

2) 2-fold incurred expenses for salaries of the disabled persons and 50 percent from the amount of the calculated social contribution from salaries and other payments to the disabled persons;

3) the expenses for education of an individual, who is not employed by a taxpayer, under the condition of conclusion a contract with the individual who has an obligation to work for the taxpayer for at least three years.

For the purposes of this paragraph, the expenses for education shall include:

the actually incurred expenses for payment for education;

the actually incurred expenses for accommodation within the amounts, established by the Government of the Republic of Kazakhstan;

the expenses for paying a trainee the amount of money, established by the taxpayer, but which does not exceed the amounts, established by the Government of the Republic of Kazakhstan;

the actually incurred expenses for the journey to the place of education upon the admission and back after completion of education;

4) the cost of the property, which is gratuitously transferred to the autonomous education institutions, established by paragraph 1 of Article 135-1 of this Code.

**Note of the RCLII!**

**The paragraph 1 is supplemented with sub-paragraph**

5) in accordance with the Law of the Republic of Kazakhstan dated 09.01.2012 No. 535-IV (shall be enforced from 01.01.2013).

2. A taxpayer shall have the right to reduce taxable income for the followings of income:

1) remuneration for the financial leasing of basic assets, investments into real estate, biological assets;

2) remuneration for the debt securities, which are on the official list of the Stock Exchange, working in the Republic of Kazakhstan, on the date of assignment of this remuneration;

3) remuneration for the state issue-grade securities, agency bonds;

3-1) the income from increase of the value when realizing the state issue-grade securities, reduction by the losses from realization of the state issue-grade securities;

3-2) the income from increase of the value when realizing agency bonds, reduction by the losses from realization of the agency bonds;

4) the cost of the property, received in the form of humanitarian aid in case of emergency situations of natural and man-made character and used as intended;

5) the cost of basic assets, gratuitously received by a republican state enterprise from a state body or a republican state enterprise on the basis of the decision, made by the Government of the Republic of Kazakhstan;

6) the income from increase of the value when realizing shares, shares of participation in a legal entity or a consortium, reduced by the losses from realization of shares, shares of participation in a legal entity or a consortium. This sub-paragraph shall be applied under simultaneous fulfilling of the following conditions:

on the date of realization of the shares, shares of participation, a taxpayer has these shares, shares of participation for more than three years;

a legal entity-issuer or the legal entity, a share of participation in which is realized, or a participant of a consortium who realizes a share of participation in this consortium, is not a subsoil user;

more than 50 percent of the cost of assets of a legal entity-issuer or the legal entity, a share of participation in which is realized, or the total cost of the assets of the consortium members, a share of participation in which is realized, on the date of this realization is the property of persons (person) who are (is) not subsoil users (user);

7) the income from increase of the value, when being realized by the method of open tenders on the Stock Exchange, working in the Republic of Kazakhstan, of the securities, which are on the official list of this Stock Exchange, reduced by the losses, which incurred from realization by the open tender method at the Stock Exchange, working in the Republic of Kazakhstan, of the securities, which are on the official list of this Stock Exchange on the date of realizing.

3. *Excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).*



Footnote. Article 133 as amended by the Laws of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 19.01.2011 No. 395-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

#### **Article 134. Taxation of non-commercial organizations**

1. For the purposes of this Code, a non-commercial organization is an organization, registered in the form, established by the civil legislation of the Republic of Kazakhstan for a non-commercial organization, except for joint-stock companies, institutions and consumer cooperatives, except for the cooperatives of apartment (premises) owners, working in the public interests and corresponding with the following conditions:

- 1) it shall not be aimed at receiving income;
- 2) it shall not distribute net income of property between the participants.

2. The income of a non-commercial organization under a contract on implementation of state social order, in the form of remuneration for deposits, grants, entrance and membership fees, contributions of participants of a condominium, sponsorship and charity, gratuitously received property, inpayments and donations on the gratuitous basis shall not be subjected to taxation under observing the conditions, specified in paragraph 1 of this Article.

For the purposes of this paragraph, the contributions of participants of a condominium are:

the obligatory payments by owners of premises (apartments), aimed at covering the total expenses for maintenance and exploitation of the joint property;

the payments by owners of premises (apartments), aimed at covering additional expenses which are not attributed to the obligatory and those, providing necessary exploitation of a house as a whole, entrusted to the owners of the premises (apartments) with their consent;

a fine in the amount, established by the legislation of the Republic of Kazakhstan charged upon a delay of obligatory payments for general expenses by the owners of the premises (apartments).

The amounts and the order of contributions of participants of a consortium shall be approved by a general meeting of members of the condominium in the order, established by the legislative act of the Republic of Kazakhstan on housing relations.

3. In case of inobservance of the conditions, specified in paragraph 1 of this Article, the income of a non-commercial organization shall be taxable in the generally established order.

4. The income which is not specified in paragraph 2 of this Article shall be taxable in the generally established order.



At that, a non-commercial organization shall be obliged to keep separate accounting for the income, which is exempted from taxation in accordance with this Article, and the income, which is taxable in the generally established order.

5. When receiving the income, which is taxable in the generally established order, the amount of expenses of a non-commercial organization, which is attributable to deductions, shall be determined by the choice of a taxpayer based on a proportional or separate method.

6. According to the proportional method, the amount of expenses, which is attributable to deductions, in the total amount of expenses, shall be determined, taking into account the proportion of the income, which is not specified in paragraph 2 of this Article, in the total amount of the income of a non-commercial organization.

7. According to the separate method, a taxpayer shall keep the separate accounting for the expenses, attributable to the income, specified in paragraph 2 of this Article and the expenses, attributable to the income, which shall be taxable in the generally established order.

**Footnote. Article 134 as amended by the Laws of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 20); dated 30.12.2009 No . 234-IV (shall be enforced from 01.01.2010).**

### **Article 135. Taxation of organizations working in the social sphere**

1. The income of the organizations, specified by this Article shall not be taxable under observing the conditions, established by this Article.

2. For the purposes of this Code, the organizations working in the social sphere shall be the organizations which perform thes of activities, specified in this paragraph, income from which is 90 percent of the total annual income of these organizations, taking into account the income in the form of gratuitously received property and remuneration for deposits.

The activity in the social sphere shall include the followings of activities:

- 1) provision of medical services, except for cosmetology, sanatorium and resort;
- 2) provision of services of the primary, basic secondary, general secondary, technical and vocational, post-secondary, higher and postgraduate education shall be performed under the appropriate licenses to conduct educational activities, and additional education, early childhood care and education;
- 3) the activity in the sphere of science (including scientific research, use, including realization of scientific intellectual property by its author) performing of scientific and (or) scientific and technical activities by subjects, accredited by the authorized body in the field of science, sports (except for sport shows of commercial nature), culture (except for entrepreneurship), provision of services for preservation (except for dissemination of information and propaganda) of historical and cultural heritage and

cultural values, objects, listed in the registers of historic and cultural heritage or in the State List of Monuments of History and Culture in accordance with the legislation of the Republic of Kazakhstan, and in the field of social security and social welfare of children, the aged and the disabled persons;

4) library services.

The Income of the organizations, defined by this paragraph shall not be taxable when directing them to the implementation of such activities.

3. For the purposes of this Code, the organizations working in the social sphere shall also include those, meeting the following conditions:

1) the number of the disabled persons for a tax period is no less than 51 percent of the total number of employees.

2) the expenses for salaries of the disabled persons for a tax period is no less than 51 percent (in the special organizations, where persons who are visually, acoustically, orally disabled work - no less than 35 percent) from the total expenses for salaries.

4. The organizations working in the social sphere shall not include the organizations, receiving income from production and realization of the excisable goods

5. In violation of the conditions, defined by this Article, the received income shall be taxable in the order, established by this Code.

**Footnote. Article 135 as amended by the Laws of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2011); dated 18.02.2011 No. 408 -IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 15.07.2011 No. 461-IV (shall be enforced upon expiry of six months after its first official publication).**

#### **Article 135-1. Taxation of autonomous educational organizations**

1. For the purposes of this Code, autonomous education institutions are:

1) a non-commercial organization created at the initiative of the First President of the Republic of Kazakhstan - the Leader of the Nation to provide funding for autonomous educational organizations, determined by sub-paragraphs 2) - 5) of this paragraph, the highest governing body of which is the Supreme Guardianship Board;

2) a non-commercial education institution when observing all of the following conditions:

it was created by the Government of the Republic of Kazakhstan;

its highest governing body is the Supreme Guardianship Board, created in accordance with the legislation of the Republic of Kazakhstan;

it performs one or mores of educational activities, specified by the Laws of the Republic of Kazakhstan:

primary, secondary and high school;

post-secondary education;  
higher and postgraduate education;  
additional education;

3) The National Holding Company in healthcare which simultaneously corresponds with the following conditions:

it is a joint stock company, created under the decision of the Government of the Republic of Kazakhstan;

50 and more percent of voting shares of this joint stock company are owned by the person, specified in sub-paragraph 2) of this paragraph;

it performs the activity in healthcare area in accordance with the legislative acts of the Republic of Kazakhstan;

4) an organization, except for that, specified in sub-paragraph 3) of this paragraph, if it corresponds with the following conditions:

50 and more percent of voting shares of (participation shares) this company are owned by the persons, specified in sub-paragraphs 2) and 3) of this paragraph, or it is a non-commercial organization, founded solely by the persons, specified in sub-paragraph 2) of this paragraph;

no less than 90 percent of income in the total annual income of this organization, taking into account the income in the form of gratuitously received property and remuneration for deposits, are the income, received from carrying out one or several of the activity:

provision of medical services (except for cosmetology, sanatorium and resort);

provision of services on the following levels of activity, established by the Laws of the Republic of Kazakhstan:

primary, secondary and high school;

post-secondary education;

higher and postgraduate education;

additional education;

the activity in the sphere of science, namely: scientific and technical, innovational, research, including basic and applied scientific research;

provision of consulting services on the activities, specified in this paragraph

For the purposes of this sub-paragraph, the inpayments from a founder which are received and aimed at implementation of the activities, specified in this paragraph are also the income, received from the aforesaid activities;

5) an organization, except for that, specified in sub-paragraph 3) of this paragraph, if it simultaneously corresponds with the following conditions:

50 and more percent of voting shares (participation shares) of this organization are owned by the persons, specified in sub-paragraphs 2) and 3) of this paragraph or it is a

non-commercial organization, founded solely by the persons, specified in sub-paragraph 2) of this paragraph;

The Income of this organization for the reporting tax period shall be exempted from taxation in case of carrying out one or several of activities in the sphere of science:

scientific and technical;

innovational;

research activities, including basic and applied scientific research.

Attribution of the ongoing activities to the sphere of activities in the sphere of science, specified in sub-paragraph 5) of this paragraph shall be confirmed by the resolution of an authorized state body on science.

This sub-paragraph shall not be applied to the organizations if they carry out one or several of activities:

provision of medical services (except for cosmetology, sanatorium and resort);

provision of services for the following levels of educational activities, established by the Laws of the Republic of Kazakhstan:

primary, secondary and high school;

post-secondary education;

higher and postgraduate education;

additional education;

provision of consulting services on theses of activities.

2. When determining by an autonomous education institution of the amount of the corporate income tax, payable to the budget, the amount of the calculated corporate income tax shall decrease by 100 percent in accordance with Article 139 of this Code.

The provision of this paragraph shall not be applied to the periods when the net income or property, received by an autonomous education institution, which is specified in sub-paragraphs 3), 4) and 5) of paragraph 1 of this Article, were distributed among the participants.

**Footnote. The Chapter 12 is supplemented with Article 135-1 in accordance with the Law of the Republic of Kazakhstan dated 19.01.2011 No. 395-IV (shall be enforced from 01.01.2011); as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2011).**

**Article 135-2. Taxation of an organization specialized in improvement of the quality of credit portfolios of the second tier banks and hundred percent of voting shares of which is owned by the national bank of the Republic of Kazakhstan**

1. The income of an organization, improving the quality of credit portfolios of the second tier banks and hundred percent of voting shares of which belong to the National

Bank of the Republic of Kazakhstan shall be exempted from taxation, provided that this income is received from the followings of activities:

1) purchase of doubtful and bad assets from the second tier banks and their realization;

2) possession and realization of assets and (or) participation shares in the authorized capital, the rights of claim for which are purchased from the second tier banks by the organization, improving the quality of credit portfolios of the second tier banks;

3) possession and realization of the shares and (or) bonds, issued and placed by the second tier banks, from which the organization, improving the quality of credit portfolios of the second tier banks, purchased the rights of claim for doubtful and bad assets;

4) leasing or use of another form of repayable temporary use of the property, received for the rights of claim for legal entities, purchased by an organization, improving the quality of credit portfolios of the second tier banks

5) placing money in securities.

At that, attribution of the receivable income to the income, specified in this paragraph, shall be performed in the order, established by the National Bank of the Republic of Kazakhstan upon the agreement with an authorized body.

2. The income from the activities, which are not mentioned in paragraph 1 of this Article, shall be taxable in the generally established order. At that, an organization, improving the quality of credit portfolios of the second tier banks and hundred percent of which belong to the National Bank of the Republic of Kazakhstan, shall be obliged to keep separate accounting for the income, which is exempted from taxation in accordance with this Article and the income, which is taxable in the generally established order.

3. In receiving the income, taxable in the generally established order, the amount of expenses of an organization, improving the quality of credit portfolios of the second tier banks and hundred percent of which belong to the National Bank of the Republic of Kazakhstan, which is attributable to deductions, shall be determined upon the proportional or the separate method of according by the choice of this organization.

4. By according to the proportional method, the amount of expenses, attributable to deductions, shall be determined in the total amount of expenses on the basis of the proportion of the income, received from the activities, which are not specified in paragraph 1 of this Article, in the total amount of income.

5. By according to the separate method, an organization, improving the quality of credit portfolios of the second tier banks and hundred percent of which belong to the National Bank of the Republic of Kazakhstan, shall keep the separate accounting for the expenses, which are attributed to the income, received from the activities, specified

by paragraph 1 of this Article, and the expenses, which are attributable to the income, taxable in the generally established order.

**Footnote.** The Code is supplemented with Article 135-2 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced from 01.01.2012 and operate until 01.01.2018).

## **Chapter 13. LOSSES**

### **Article 136. The concept of losses**

1. A loss from an entrepreneurship is:

1) an excess of deductions over the total annual income, taking into account the amendments, provided by Article 99 of this Code;

2) a loss from selling a company as a property complex.

2. a loss from realization of securities is:

1) a loss on securities, except for the debt securities, the negative disparity between the cost of realization and the cost of purchase;

2) a loss on debt securities - is the negative disparity between the cost of realization and the cost of purchase, taking into account depreciation of a discount and (or) bonus on the date of the realization.

3. A loss on derivative financial instruments, taking into account the specifics of hedging is an excess of expenses over the inpayments, which shall be defined in accordance with Article 127, 128 of this Code.

4. A loss from realization of the non-depreciable assets, which are specified in sub-paragraphs 1), 2), and 3) of paragraph 2 of Article 87 of this Code, is the negative disparity between the cost of realization and the primary cost of these assets.

5. A loss from entrepreneurship is not the losses, specified in paragraphs 2, 3 and 4 of this Article and the losses from retirement of the fixed assets of group I.

**Footnote.** Article 136 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

### **Article 137. Postponing of losses**

1. The losses from entrepreneurship and losses from retirement of the fixed assets of group I shall be postponed for the next ten years inclusively to repay them at the expense of the taxable income of these tax periods.

1-1. The losses from realization of the non-depreciable assets, specified in sub-paragraphs 1), 2) and 3) of paragraph 2 of Article 87 of this Code, shall be compensated at the expense of the income from increase in the value, which is specified in sub-paragraphs 1), 2) and 3) of paragraph 2 of Article 87 of this Code.

If these losses cannot be compensated in the period when they occurred, they can be postponed for the next ten years inclusive and shall be compensated at the expense of the income from increase in the value, specified in sub-paragraphs 1), 2) and 3) of paragraph 2 of Article 87 of this Code.

2. Unless otherwise established by this Article, the losses, appeared in realizing securities, shall be compensated at the expense of the income from increase in the value, except for the income from increase in the value, received in realizing the securities, specified in paragraphs 3, 4, 4-1 and 4-2 of this Article.

If these losses cannot be compensated in the period when they occurred, they can be postponed for the next ten years inclusively and shall be compensated at the expense of the income from increase in the value, received in realizing other securities, unless otherwise provided for by this Article.

3. The losses appeared from realization of shares, shares of participation in a legal entity or a consortium, shall be compensated at the expense of the income from increase in the value in realizing of the shares, participation shares of a legal entity or a consortium. This paragraph shall be applied under simultaneous fulfillment of the following conditions:

a taxpayer has the shares and the shares of participation on the date of realization of these shares and shares of participation for more than three years;

a legal entity - issuer or a legal entity, the share of participation of which is realized , or a participant of a consortium who realizes the share of participation in this consortium shall not be a subsoil user;

more than 50 percent of the cost of assets of a legal entity-issuer or a legal entity, the share of participation of which is realized, or the total cost of the assets of participants of a consortium, the share of participation of which is realized, shall be the property of a person (persons), who is not (are not) a subsoil user (subsoil users) on the date of this realization.

4. The losses appeared from realization by the method of open tendering on the Stock Exchange, working in the Republic of Kazakhstan, of the securities, which are on the official lists of this Stock Exchange, shall be compensated at the expense of the income from increase in the value in realizing by the method of open tendering on the Stock Exchange, working in the Republic of Kazakhstan, of the securities, which are on the official lists of this Stock Exchange.

4-1. The losses, occurred from realization of government-issued securities, shall be compensated at the expense of the income from increase in the value in realizing the government-issued securities.

4-2. The losses, occurred from realization of agency bonds, shall be compensated at the expense of the income from increase in the value in realizing the agency bonds.

5. If the losses, specified in paragraphs 3, 4, 4-1 and 4-2 of this Article, cannot be compensated in the period when they took place, they shall not be postponed for the next tax periods.

6. The losses of a special financial company, received from the activity, implemented in accordance with the legislation of the Republic of Kazakhstan on project funding and securitization, can be postponed in the contracts on securitization during the period of circulation of the bonds, provided by the distinguished assets.

7. The losses, incurred within application of the special tax regime for legal entities-producers of agricultural products, aquaculture production (fish farming) and rural consumer cooperatives, shall not be postponed for the next tax periods.

**Note of the RCL!**

**Paragraph 7-1 shall be enforced from 01.01.2012 and operate up to 01.01.2018.**

7-1. The losses, incurred by a subsidiary of a bank, which buys doubtful and bad assets of the parental bank, shall not be postponed for the next tax periods.

8. The losses on derivative financial instruments, taking into account hedging operations, shall be compensated at the expense of the income on derivative financial instruments. If these losses cannot be compensated in the period when they took place, they can be postponed for the next ten years inclusively and shall be compensated at the expense of the income on derivative financial instruments.

**Footnote. Article 137 as amended by the Laws of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 21.01.2010 No. 242-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012); dated 12.01.2012 No. 539-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

**Article 138. Postponing of losses during reorganization**

The losses, transferred in connection with the reorganization via separation or segregation, shall be distributed in accordance with the share of participation of legal successors in the reorganized taxpayer, and shall be postponed in the order, established by Article 137 of this Code.

**Chapter 14. THE ORDER OF CALCULATION AND THE DEADLINES FOR PAYMENT OF THE CORPORATE INCOME TAX**

**Article 139. Calculation of the amount of the corporate income tax**



1. The corporate income tax, except for the corporate income tax on the net income and the corporate income tax, withheld at the source of payment, shall be calculated for a tax period in the following order:

Product of the rate, established by paragraph 1 or paragraph 2 of Article 147 of this Code, and the taxable income, reduced by the amount of the income and the expenses, specified in Article 133 of this Code, and the amount of the expenses, postponed in accordance with Article 137 of this Code,

minus

the amount of the corporate income tax, on which the set-off is performed in accordance with Article 223 of this Code,

minus

the amount of the corporate income tax, withheld in a tax period at the source of payment from the income in the form of a winning, on which the set-off is performed in accordance with paragraph 2 of this Article,

minus

the amount of the corporate income tax, withheld at the source of payment from the income in the form of remuneration, transferred in the previous tax periods in accordance with paragraph 3 of this Article,

minus

the amount of the corporate income tax, withheld in a tax period at the source of payment from the income in the form of a remuneration, on which the set-off is performed in accordance with paragraph 2 of this Article.

2. The amount of the corporate income tax, payable to the budget, shall be decreased by the amount of the corporate income tax, withheld at the source of payment from the income in the form of a winning, remuneration if the documents, confirming the withholding of this tax by the source of payment are presented.

The provision of this paragraph shall not be applied to an organization, working in the social sphere, a non-commercial organization for the corporate income tax, withheld from the source of payment from the income in the form of remuneration for deposits.

3. If the amount of the corporate income tax, withheld at the source of payment from the income in the form of remuneration, is bigger than the amount of the corporate income tax, payable to the budget, the disparity between the amount of the corporate income tax, withheld at the source of payment and the amount of the corporate income tax, payable to the budget, shall be postponed for the next ten tax periods inclusively and shall sequentially reduce the amounts of the corporate income tax, payable to the budget for these tax periods.

**Footnote. Article 139 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).**

## **Article 140. Specifics of calculation and payment of the corporate income tax by certain groups of taxpayers**

A taxpayer, who uses the special tax regime for legal entities-producers of agricultural products, aquaculture production (fish farming) and the rural consumer cooperatives, shall perform calculation of the corporate income tax, taking into account the specifics, established by Article 451 of this Code.

**Footnote. Article 140 as amended by the Law of the Republic of Kazakhstan dated 21.01.2012 No. 242-IV (shall be enforced from 01.01.2011).**

## **Article 141. Calculation of the amount of advances**

1. Unless otherwise provided by paragraph 2 of this Article, the taxpayers shall calculate and pay advances on the corporate income tax within the current tax period in the order, established by this Code.

2. The advances on the corporate income tax shall not be calculated and paid, as well as calculations of the amounts of advances on the corporate income tax, payable for the periods before and after handing in the declaration for the corporate income tax for previous tax period, shall not be submitted:

1) unless otherwise provided by this paragraph, by the taxpayers, whose total annual income including adjustments for the previous tax period, does not exceed the amount equal to 325000-fold amount of the monthly calculation index, established by the Law on the Republican Budget and which operates as of January 1 of the financial year preceding the previous tax period;

2) by the newly created (appeared) taxpayers - during the tax period when the state (account) registration in justice bodies took place, and during the next tax period,;

3) by the nonresident legal entities, working in the Republic of Kazakhstan through a permanent establishment without opening an affiliate, representative office, a newly registered in the tax bodies as the taxpayers - during the tax period when the registration in the tax bodies took place, and during the next tax period;

4) by the taxpayers, meeting the conditions of paragraph 1 of Article 134 of this Code;

5) by the taxpayers, meeting the conditions of paragraph 1 of Article 135-1 of this Code;

6) by the taxpayers, meeting the conditions of paragraphs 2 and 3 of Article 135 of this Code;

7) by the taxpayers, meeting the provisions of paragraph 1 of Article 150 of this Code.

3. The amount of advances on the corporate income tax, which is payable for the period before submission of the declaration for the corporate income tax for the

previous tax period, calculated in accordance with paragraph 4 of this Article, shall be paid in equal shares during the first quarter of the reporting tax period.

The amount of advances on the corporate income tax, which is payable for the period after submission of the declaration for the corporate income tax for the previous tax period, calculated in accordance with paragraphs 6 and 7 of this Article, shall be paid in equal shares during the second, third and fourth quarter of the reporting tax period.

The amount of an adjustment to advances on the corporate income tax, made in accordance with paragraph 8 of this Article, shall be equally distributed over months of the reporting tax period, for which the deadlines for payment of advances on the corporate income tax are not yet occurred.

4. Calculation of the amount of the corporate income tax, which is payable for the period before submission of the declaration for the corporate income tax for the previous tax period, shall be submitted for the first quarter of the reporting tax period to a tax body at the location of a taxpayer no later than January 20 of the reporting tax period.

The amount of advances on the corporate income tax, which is payable for the period before submission of the declaration for the corporate income tax for the previous tax period, shall be calculated in the amount of one-fourth of the total amount of advances, calculated in the calculation of the advances on the previous tax period.

4-1. In case a taxpayer did not calculate advances on the corporate income tax in the previous tax period, the amount of advances on the corporate income tax, payable for the period before submission of the declaration for the corporate income tax for the previous tax period, shall be calculated on the basis of the estimated amount of the corporate income tax for the current tax period.

5. Calculation of the amount of advances on the corporate income tax, which is payable for the period after submission of the declaration for the corporate income tax for the previous tax period, shall be presented by a taxpayer within twenty calendar days from the date of its submission for the second, third, fourth quarters of the reporting tax period.

6. The amount of advances on the corporate income tax, which is payable for the period after submission of the declaration for the corporate income tax for the previous tax period, shall be calculated in the amount of three-fourths of the amount of the corporate income tax, calculated within the previous tax period in accordance with paragraph 1 of Article 139 and Article 199 of this Code.

7. The taxpayers, who are obliged to calculate and pay the corporate income tax, specified in this Article, who suffered losses for the previous tax period or who do not have any taxable income, shall be obliged within twenty calendar days from the date of submission of the declaration for the corporate income tax to submit to a tax body the

calculation of the amount of advances on the basis of the estimated amount of the corporate income tax for the current tax period.

8. Taxpayers shall have the right, during the reporting tax period, to submit the additional calculation of the amount of advances on the corporate income tax, except for the additional calculation of the amount of advances on the corporate income tax payable within the period before submission of the declaration for the corporate income tax for the previous tax period. At that, the additional calculation of the amount of advances for the corporate income tax, payable for the period after submission of the declaration for the corporate income tax for the previous tax period, shall be made, taking into account the estimated amount of income for the reporting tax period and shall be submitted within the months of the reporting tax period, for which the deadlines for payment of advances on the corporate income tax are not yet occurred.

The amounts of advances on the corporate income tax, payable for the period after submission of the declaration for the corporate income tax for the previous period, taking into account the adjustments, specified in the additional calculations of the amounts of payments for the corporate income tax, cannot have negative value.

The additional calculation of the amounts of advances on the corporate income tax payable for the period after submission of the declaration for the corporate income tax for the previous tax period can be submitted no later than December 20 of the tax period.

9. In prolonging the deadline for presenting the declaration for the corporate income tax for the previous tax period:

1) the amount of advances on the corporate income tax, payable for the period after submission of the declaration for the corporate income tax for the previous tax period, shall be calculated for the period, for which the deadline for submission of the declaration for the corporate income tax for the previous tax period was prolonged;

2) a taxpayer shall pay the amount of an advance for the period, for which the deadline for submission of this declaration was prolonged, taking into account the estimated amount of the advance, payable for the period after submission of the declaration for the corporate income tax for the previous tax period.

The positive disparity between the amounts of advances for the period, for which the deadline for submission of this declaration was prolonged, calculated in the amount of advances on the corporate income tax, payable for the period after submission of the declaration for the corporate income tax for the previous tax period and the amount of an advance, paid for the period for which the deadline for submission of this declaration was prolonged, shall be recognized as arrears of advances on the corporate income tax.

10. *Excluded by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV.*

11. A newly formed legal entity in the result of reorganization via separation or segregation shall calculate advances on the corporate income tax in the tax period, when this reorganization was implemented, and during the next two tax periods in case that the legal entity, reorganized via separation or segregation calculated the advances on the corporate income tax in the tax period, when this reorganization was implemented.

The amount of advances on the corporate income tax, payable for the period before and after submission of the declaration for the corporate income tax for the previous tax period, shall be calculated by a newly formed legal entity in the result of reorganization via separation or segregation, taking into account the estimated amount of the corporate income tax for the current tax period within the tax period, when reorganization via separation or segregation was implemented, and during the next two tax periods.

Footnote. Article 141 as amended by the Laws of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 16.11.2009 No. 200-IV (the order of enforcement see Article 2); dated 30.12.2009 No. 234-IV (the order of enforcement see Article 2); dated 19.01.2011 No. 395-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).

#### **Article 142. The deadlines and order for payment of the corporate income tax**

1. Taxpayers shall pay the corporate income tax at the location.

The nonresident legal entities, working in the Republic of Kazakhstan through a permanent establishment, shall pay the corporate income tax at the location of the permanent establishment.

2. The taxpayers, specified in paragraph 1 of Article 141 of this Code shall pay advances on the corporate income tax for each month to the budget during the tax period, established by Article 148 of this Code no later than the 25th of each month in the amount, specified in accordance with Article 141 of this Code.

3. The amount of advances, paid to the budget during a tax period, shall be set off by the payment of the corporate income tax, calculated on the declaration for the corporate income tax for the reporting tax period.

A taxpayer shall pay the corporate income tax on the results of a tax period no later than ten calendar days after the deadline, established for submission of the declaration.

Footnote. Article 142 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009).

#### **Chapter 15. THE CORPORATE INCOME TAX WITHHELD AT THE SOURCE OF PAYMENT**

## **Article 143. The income taxable at the source of payment**

1. The income taxable at the source of payment, unless otherwise provided by paragraph 2 of this Article, shall include:

1) the winnings, paid by a legal entity, which is a resident of the Republic of Kazakhstan, a nonresident legal entity, working in the Republic of Kazakhstan through a permanent establishment, to a legal entity, which is a resident of the Republic of Kazakhstan, a nonresident legal entity, working in the Republic of Kazakhstan through a permanent establishment;

2) the income of nonresidents from the sources in the Republic of Kazakhstan, determined in accordance with Article 192 of this Code and which is not related to a permanent establishment of these nonresidents, except for those, specified in sub-paragraph 2-1) of this paragraph;

2-1) the income, specified in sub-paragraph 9) of paragraph 1 of Article 192 of this Code, paid to an affiliate, a representative office or a permanent establishment of a nonresident;

3) the remuneration, paid by a legal entity, which is a resident of the Republic of Kazakhstan, a nonresident legal entity, working in the Republic of Kazakhstan thorough a permanent establishment, to a legal entity, which is a resident of the Republic of Kazakhstan, a nonresident legal entity, operating in the Republic of Kazakhstan thorough a permanent establishment.

2. The following shall not be taxable at the source of payment:

1) the remuneration for the government-issued securities and agency bonds;

2) the investment income which is paid to accumulative pension funds for the placed pension assets, to mutual funds and joint stock mutual funds and the State Social Insurance Fund for the placed assets by the insurance companies, working in the life insurance industry;

3) the remuneration for the debt securities, which are on the official list at the Stock Exchange, working in the Republic of Kazakhstan, on the date of assignment of this remuneration;

4) the remuneration for credits (loans), paid to the organizations, which perform bank lending operations under the license;

5) the remuneration for credits (loans), paid to credit partnerships;

6) the remuneration for credit (loans), paid to the special financial companies, created in accordance with the legislation of the Republic of Kazakhstan on project financing and securitization for the securitization transactions;

7) the remuneration on a credit (a loan), deposit which is paid to a resident bank;

8) the remuneration for a financial leasing which is paid to a resident-lessor;

9) the remuneration for repo operations;

**Note of the RCL!**

Sub-paragraph 10) is in the wording of the Law of the Republic of Kazakhstan dated 26.11.2012 No. 57-V (shall be enforced from 01.01.2013)

- 10) the remuneration for micro-credits, paid to micro-credit organizations;
- 11) the remuneration for debt securities which is paid:
  - to the organizations, performing professional activities in the securities market;
  - to the legal entities through organizations, performing professional activities in the securities market;
- 12) the remuneration for deposits, which is paid to the non-commercial organizations, except for those, registered in the form of joint-stock companies, establishments and consumer cooperatives, except for cooperatives of premises (an apartment) owners (condominiums).

**Note of the RCL!**

Paragraph shall be enforced from 01.07.2011 and operate until 01.01.2018.

The remuneration for a credit (a loan), which is paid to the organization, improving the quality of credit portfolios of the second tier banks and hundred percent of voting shares of which belong to the National Bank of the Republic of Kazakhstan, shall not be taxable at the source of payment.

**Note of the RCL!**

Paragraph shall be enforced from 01.01.2012 and operate until 01.01.2018.

The remuneration for a credit (a loan), which is paid to an affiliate of a bank, purchasing doubtful and bad assets of the parental bank, shall not be taxable at the source of payment.

Footnote. Article 143 as amended by the Laws of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 12.01.2012 No. 539-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 05.07.2012 No. 30-V (shall be enforced upon expiry of ten calendar days after its first official publication).

**Article 144. The order of calculation of the corporate income tax withheld at the source of payment**

1. The amount of the corporate income tax, withheld at the source of payment, shall be determined by a tax agent by applying the rate, established by paragraph 3 of Article 147 of this Code, to the amount of the payable income which is taxable at the source of payment.

2. A tax agent shall be obliged to withhold the tax, withheld at the source of payment when paying the income, established in Article 143, except for the income, provided by sub-paragraph 2) of paragraph 1 of Article 143 of this Code, regardless of the form and the place of the income payment.

3. A legal entity shall have the right upon its decision to recognize as a tax agent for the corporate income tax, withheld at the source of payment, its structural unit for the income taxable at the source of payment which are paid (payable) by this structural unit.

The decision of a legal entity or cancellation of this decision shall come into force January 1 of the year following the year of the decision-making.

The provisions of this paragraph shall not be applied to the corporate income tax, withheld at the source of payment from the income, which is paid (payable) to a nonresident legal entity working in the Republic of Kazakhstan without forming a permanent establishment.

**Footnote. Article 144 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

**Article 144-1. The order of income taxation of the nonresident legal entities, working without forming a permanent establishment in the Republic of Kazakhstan**

Calculation, withholding and transfer of the corporate income tax from the income of the nonresident legal entities, working without forming a permanent establishment in the Republic of Kazakhstan, established by sub-paragraph 2) of paragraph 1 of Article 143 of this Code, and submission of the tax reporting shall be performed in the order, specified by Article 23 of this Code.

**Footnote. The Code is supplemented with Article 144-1 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

**Article 145. The order of transfer of the corporate income tax withheld at the source of payment**

1. Tax agents shall be obliged to transfer the amounts of the corporate income tax, withheld at the source of payment no later than twenty five calendar days after the end of the month when the payment was made, unless otherwise provided by this Code.

2. Transfer of the amounts of the corporate income tax, withheld at the source of payment, shall be performed at the location of a tax agent.

A nonresident legal entity, working in the Republic of Kazakhstan through a permanent establishment, shall transfer the amounts of the corporate income tax,



withheld at the source of payment to the budget at the location of a permanent establishment.

#### **Article 146. Calculation of the corporate income tax withheld at the source of payment**

Tax agents shall be obliged to submit calculation of the amounts of the corporate income tax, withheld at the source of income no later than the 15th of the second month, following the quarter when the payment was made.

### **Chapter 16. TAX RATES, TAX PERIOD AND TAX DECLARATION**

#### **Article 147. Tax rates**

1. Taxable income of a taxpayer, reduced by the amount of income and expenses, provided by Article 133 of this Code and by the amount of the expenses, incurred in the order, established by Article 137 of this Code, shall be subjected to taxation at the rate of 20 percent, unless otherwise provided by paragraph 2 of this Article.

2. Taxable income of legal entities-producers of agricultural products, reduced by the amount of the income and expenses, provided by Article 133 of this Code and by the amount of expenses, incurred in the order, established by Article 137 of this Code, shall be subjected to the taxation at the rate of 10 percent in case if the income was received from the agricultural production, production of beekeeping products, as well as the processing and realization of their own production.

3. The income taxable at the source of payment, except for the income of nonresidents from the sources in the Republic of Kazakhstan, shall be subjected to taxation at the rate of 15 percent.

4. The income of the nonresidents from the sources in the Republic of Kazakhstan, which is determined by sub-paragraphs 1) - 8), 10) - 29) of paragraph 1 of Article 192 of this Code, which is not related to a permanent establishment of these nonresidents and the income, specified in sub-paragraph 9) of paragraph 1 of Article 192 of this Code, shall be subjected to taxation at the rates, defined by Article 194 of this Code.

5. In addition to the corporate income tax, the net income of the nonresident legal entity, working in the Republic of Kazakhstan through a permanent establishment, shall be subjected to taxation at the rate of 15 percent in the order, established by Article 199 of this Code.

**Footnote. Article 147 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 26.11.2010 No. 356-IV (shall be enforced from 01.01.2011).**

#### **Article 148. Tax period**

1. Tax period for the corporate tax income is a calendar year from January 1 to December 31.

2. If an organization was created after the beginning of a calendar year, the first tax period for it shall be the period of time from the date of its creation to the end of the calendar year.

At that, the date of creation of an organization is the date of its state registration in a judicial body.

3. If an organization was liquidated, reorganized before the end of a calendar year, the last tax period for it shall be the period from the beginning of the year to the completion of the reorganization, liquidation.

4. If an organization, created after the beginning of a calendar year is liquidated, reorganized before the end of the same year, the tax period for it shall be the period from the date of creation to the date of completion of the reorganization, liquidation.

#### **Article 149. Tax declaration**

1. A taxpayer of the corporate income tax shall submit the declaration for the corporate income tax to a tax body at the location no later than March 31 of the year, following the reporting tax period, except for the nonresident, who receives, from the sources in the Republic of Kazakhstan, the income subjected to taxation at the source of payment and who works in the Republic of Kazakhstan through a permanent establishment, unless otherwise provided by this Article.

*2. Excluded by the Law of the Republic of Kazakhstan of 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).*

3. The declaration for the corporate income tax shall include the declaration and additions to it on disclosure of information on taxation objects and (or) the objects, related to taxation.

4. A taxpayer, applying the special tax regime for subjects of small business on the basis of the simplified declaration, shall not submit the declaration for the corporate income tax, taxable in accordance with Article 427 of this Code.

*Footnote. Article 149 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).*

### **SECTION 5. TAXATION OF ORGANIZATION, WORKING IN THE TERRITORY OF THE SPECIAL ECONOMIC ZONES**

#### **Chapter 17. TAXATION OF ORGANIZATIONS, WORKING IN THE TERRITORY OF THE SPECIAL ECONOMIC ZONES**

##### **Article 150. General provisions**

1. For the purposes of appliance of this Article, an organization working in the territory of a special economic zone is a legal entity, which simultaneously corresponds with the following conditions:

- 1) it shall be registered as a taxpayer at the location in a tax body in the territory of a special economic zone;
- 2) it shall not have structural units outside the territory of a special economic zone;
- 3) no less than 90 percent of the total annual income are the income receivable (received) from realization of goods of own production, works, services from theses of activities, provided by this part, except for theses of activities, provided by Article 151-4 of this Code, where the income receivable (received) from realization of goods of own production, works, services of theses of activities consists of 70 percent of the total annual income.

The enumeration of the goods, works, services specified in sub-paragraph 3) of the first part of this paragraph shall be determined by the Government of the Republic of Kazakhstan.

2. For the taxation purposes, the organizations, working in the territory of a special economic zone "Park of Innovative Technologies", are also the legal entities which simultaneously correspond with the following conditions:

- 1) they shall be registered as taxpayers at the location in a tax body;
- 2) they shall not have structural units;
- 3) no less than 70 percent of the total annual income are the income receivable (received) from realization of goods of own production, works, services from theses of activities, provided by paragraph 2 of Article 151-4 of this Code.

The enumeration of the goods, works, services specified in sub-paragraph 3) of the first part of this paragraph shall be determined by the Government of the Republic of Kazakhstan.

The enumeration of the legal entities specified in this paragraph shall be determined together with the central authorized body on execution of the budget and the central executive body on the state regulation in the sphere of creation, functioning and abolition of the special economic zones.

The order of formation of this enumeration shall be approved by the Government of the Republic of Kazakhstan.

3. Organizations, working in the territory of the special economic zones shall not include:

- 1) The subsoil users;
- 2) the organizations, producing excisable goods, except for the organizations which perform production, assembly (packaging) of the excisable goods, provided by sub-paragraphs 6) of Article 279 of this Code;
- 3) the organizations, applying the special tax regimes;

- 4) the organizations which applied investment tax preferences;
- 5) the organizations working in the gambling business.

4. Attribution of the received (receivable) income to the income from the activities, specified in sub-paragraph 3) of the first part of paragraph 1 of this Article, shall be performed on the basis of the confirmation of a local executive body of a region, city of national importance, the capital, given in the order and in the form, established by the Government of the Republic of Kazakhstan.

5. Calculation of taxes and land use payment, and refund of an excess of the value-added tax on the turnover which are taxable at the zero rate shall be performed in the order, established by this Code, taking into account the specifics, provided by this part and Articles 244-2 and 244-3 of this Code.

**Footnote. Article 150 is in the wording of the Law of the Republic of Kazakhstan dated 21.07.2011 No. 470-IV (shall be enforced from 01.01.2012); as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 564-IV (shall be enforced from 01.01.2012).**

#### **Article 151. Calculation, order and deadlines for tax payment**

**Footnote. Article 151 is excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 470-IV (shall be enforced from 01.01.2012).**

#### **Article 151-1. Taxation of organizations, working in the territory of the special economic zone "Astana - new city"**

1. In the purpose of application of the sub-paragraph 3) of the first part of paragraph 1 of Article 150 of this Code, the activities, corresponding with creation of the special economic zone "Astana - New City" are:

- the production of chemical industry products;
- the production of rubber and plastic products;
- the production of other nonmetallic mineral products;
- the production of domestic electrical devices;
- the production of machinery and equipment;
- metallurgical industry;
- the production of electrical equipment, including electric lighting equipment;
- the production of glass components for lighting devices;
- food production;
- the production of wood pulp and cellulose, paper and paperboard;
- the furniture production;
- the production of motor vehicles, trailers and semi-trailers;
- the production of railway locomotives and rolling stock;

the production of aircrafts and space crafts;  
the production of basic pharmaceutical products and preparations;  
the production of electronic parts;

building and commissioning of infrastructure facilities, hospitals, clinics, schools, kindergartens, museums, theatres, secondary and higher education institutions, libraries, students' palaces, sports centers, administrative and residential complexes in accordance with the design and estimate documentation.

2. In calculation of taxes and land use payment by organizations working in the territory of the special economic zone "Astana - New City":

1) the amount of the corporate income tax, calculated in the accordance with Article 139 of this Code, shall decrease by 100 percent in determination of the amount of the corporate income tax, payable to the budget.

The provisions of this paragraph shall not be applied to the organizations constructing and commissioning the hospitals, clinics, schools, kindergartens, museums, theatres, secondary and higher education institutions, students' palaces, sports centers in accordance with the design and estimate documentation;

2) The following shall be applied to the taxation objects and (or) the objects related to taxation, located in the territory of a special economic zone and which are used when performing thes of activities, provided by paragraph 1 of this Article:

the 0 coefficient shall be applied to the appropriate rates in the land tax calculation;

the 0 coefficient shall be applied to the appropriate rates in calculation of a land use payment for the period, specified in a contract of temporary repayable land use (leasing) but no more than ten years from the date of provision of the land under the right of temporary repayable land use (leasing);

the rate of 0 percent shall be applied to the average annual cost of the taxation objects in calculation of the property tax.

**Footnote. The Code is supplemented with Article 151-1 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 470-IV (shall be enforced from 01.01.2012).**

#### **Article 151-2. Taxation of organizations working in the territory of the economic zone "National Industrial Petrochemical Technology Park "**

1. For the purposes of application of sub-paragraph 3) of the first part of paragraph 1 of Article 150 of this Code, thes of activities corresponding with creation of the special economic zone "National Industrial Petrochemical Technology Park " are:

the production of chemical industry products;

the production of petrochemical products and products of the accompanying, and the related productions and technologies.

2. In calculation of taxes and land use payment by the organizations working in the territory of the special economic zone "National Industrial Petrochemical Technology Park ":

1) the amount of the corporate income tax, calculated in accordance with Article 139 of this Code, shall go down by 100 percent in determination of the amount of the corporate income tax which is payable to the budget;

2) the following shall be applied to the taxation objects and (or) the objects, related to taxation, which are placed in the territory of the special economic zone and which are used when performing these activities, provided by paragraph 1 of this Article:

the 0 coefficient shall be applied to the appropriate rates in the land tax calculation;

the 0 coefficient shall be applied to the appropriate rates in calculation of land use payment for the period, specified in a contract of temporary repayable land use (leasing ) but no more than ten years from the date of provision of the land under the right of temporary repayable land use (leasing);

the rate of 0 percent shall be applied to the average annual cost of the taxation objects in calculation of the property tax.

**Footnote. The Code is supplemented with Article 151-2 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 470-IV (shall be enforced from 01.01.2012).**

**Article 151-3. Taxation of organizations, working in the territory of the special economic zone "Aktau Sea Port"**

1. For the purposes of application of sub-paragraph 3) of the first part of paragraph 1 of Article 150 of this Code, these activities, corresponding with the special economic zone "Aktau Sea Port" are:

the production of domestic electrical devices;

the production of leather goods;

the production of chemical industry products;

the production of rubber and plastic products;

the production of other nonmetallic mineral products;

metallurgical industry;

the production of fabricated metal products;

the production of machinery and equipment;

the production of petrochemical and the products of the accompanying, and the related productions and technologies;

warehousing and support activities for transportation.

2. In calculation of taxes and land use payment by organizations working in the territory of the special economic zone "Aktau Sea Port":

1) the amount of the corporate income tax, calculated in accordance with Article 139 of this Code, shall decrease by 100 percent in determination of the amount of the corporate income tax which is payable to the budget;

2) the following shall be applied to the taxation objects and (or) the objects related to taxation, which are located in the territory of the special economic zone and which are used when performing these of activities, provided by paragraph 1 of this Article:

the 0 coefficient shall be applied to the appropriate rates in the land tax calculation;

the 0 coefficient shall be applied to the appropriate rates in calculation of land use payment for the period, specified in a contract of temporary repayable land use (leasing ) but no more than ten years from the date of provision of the land under the right of temporary repayable land use (leasing);

the rate of 0 percent shall be applied to the average annual cost of the taxation objects in calculation of the property tax.

**Footnote. The Code is supplemented with Article 151-3 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 470-IV (shall be enforced from 01.01.2012)**

#### **Article 151-4. Taxation of organizations operating on the territory of the special economic zone "Park of Innovative Technologies"**

1. For the purposes of implementing the sub-paragraph 3) of the first part of paragraph 1 of Article 150 of this Code, these of activities, corresponding with creation of the special economic zone "Park of Innovative Technologies" are:

design, development, implementation, pilot production and production of software, databases, and hardware;

creation of new information technologies, based on artificial immune and neural systems;

research and development works for creation and implementation of projects in the information technologies' area;

production of machines for word processing, copying and reproduction equipment, addressing machines, calculators, cash registers, marketing machines, ticket and cash machines, production of other office machinery and equipment, electronic computing machines and other information processing equipment;

production of electrical and radio elements, transmission equipment, equipment for receiving, recording and playback of audio and video;

production of domestic electrical devices;

educational activities in the field of information and innovative technologies.

2. For the purposes of application of sub-paragraph 3) of the first part of paragraph 2 of Article 150 of this Code, these of activities corresponding with creation of the special economic zone "Park of Innovative Technologies" are:



design, development, implementation, pilot production and production of software, databases, and hardware of information technologies, and the services of data centers, on-line services;

conduction of research and development works on the creation and implementation of projects in the information technologies' area.

3. In calculation of taxes and land use payment by organizations operating on the territory of the special economic zone "Park of Innovative Technologies":

1) when determining the amount of the corporate income tax which is payable to the budget, the amount of the corporate income, calculated in accordance with Article 139 of this Code tax, shall decrease by 100 percent;

2) the following shall be applied to the taxation objects and (or) the objects related to taxation, which are located in the territory of the special economic zone and which are used in performing thes of activities, specified by paragraph 1 of this Article:

the 0 coefficient shall be applied to the appropriate rates in the land tax calculation;

the 0 coefficient shall be applied to the appropriate rates in calculation of land use payment for the period, specified in a temporary paid land use agreement (leasing) but no more than ten years from the date of provision of the land plots based on the right of temporary paid land use (leasing);

the rate of 0 percent shall be applied to the average annual cost of the taxation objects in calculation of the property tax;

3) when determining the amount of the social tax, payable to the budget, the amount of the social tax, calculated in accordance with Article 359 of this Code shall decrease by 100 percent under simultaneous compliance of the following conditions:

the maximal period of benefits - 5 years from the date of registration as an organization, operating on the territory of the special economic zone;

the expenses for salaries of employees for a tax period for the corporate income tax shall make no less than 50 percent of the total annual income;

90 percent of expenses for salaries for a tax period for the corporate income tax shall form the expenses for the salaries of employees - residents of the Republic of Kazakhstan.

**Footnote.** The Code is supplemented with Article 151-4 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 470-IV (shall be enforced from 01.01.2012); as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 564-IV (shall be enforced from 01.01.2012).

**Article 151-5. Taxation of organizations, operating on the territory of the special economic zone "Ontustik"**



1. For the purpose of application of sub-paragraph 3) of the first part of paragraph 1 of Article 150 of this Code, thes of activities, corresponding with creation of the special economic zone "Ontustik" are:

- production of made-up textile goods, except for clothing;
- production of knitted garments;
- production of clothing of textile materials;
- production of silk fabrics and goods based on them;
- production of nonwoven textile materials and goods thereof;
- production of carpets, rugs and tapestries;
- production of cotton cellulose and its derivatives;
- production of high-quality paper made ??of cotton material;
- production of leather goods.

2. In calculation of taxes and land use payment by organizations working in the territory of the special economic income "Ontustik":

1) when determining the corporate income tax, payable to the budget, the amount of the corporate income tax, calculated in accordance with Article 139 of this Code, shall decrease by 100 percent;

2) the following coefficients are applied to the taxation objects and (or) the objects, related to taxation, which are placed in the territory of the special economic zone and used in thes of activities, provided by paragraph 1 of this Article:

the 0 coefficient - to the appropriate rates in the land tax calculation;

the 0 coefficient shall be applied to the appropriate rates in calculation of land use payment for the period, specified in a temporary paid land use agreement(leasing) but no more than ten years from the date of provision of the land plots based on the right of temporary paid land use (leasing);

the rate of 0 percent shall be applied to the average annual cost of the taxation objects in calculation of the property tax;

**Footnote. The Code is supplemented with Article 151-5 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 470-IV (shall be enforced from 01.01.2012).**

#### **Article 151-6. Taxation of organization, operating on the territory of the special economic zone "Burabai"**

1. For the purposes of application of sub-paragraph 3) of the first part of paragraph 1 of Article 150 of this Code, thes of activities corresponding with creation of the special economic zone "Burabai" are:

construction and commissioning of hotels, holiday homes, sanatoriums in accordance with the design and estimate documentation which are not connected with gambling business;

provision of tourism services.

2. In calculation of taxes and land use payment by organization working in the territory of the special economic zone "Burabai":

1) when determination of the amount of the corporate income tax, payable to the budget, the amount of the corporate income tax, calculated in accordance with Article 139 of this Code, shall reduce by 100 percent;

2) the following coefficients shall be applied to the taxation objects and (or) the objects related to taxation, which are located in the territory of the special economic zone and used for performing thes of activities, provided by paragraph 1 of this Article:

the 0 coefficient shall be applied to the appropriate rates in the land tax calculation;

the 0 coefficient shall be applied to the appropriate rates in calculation of land use payment for the period, specified in a temporary paid land use agreement (leasing) but no more than ten years from the date of provision of the land plot based on the right of temporary repayable land use (leasing);

the rate of 0 percent shall be applied to the average annual cost of the taxation objects in the property tax calculation;

**Footnote. The Code is supplemented with Article 151-6 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 470-IV (shall be enforced from 01.01.2012).**

## **Article 152. Tax period and tax reporting**

Tax period, the order and deadlines for submission of a tax reporting on taxes and other obligatory payments to the budget shall be determined in accordance with this Code.

## **SECTION 6. THE INDIVIDUAL INCOME TAX**

### **Chapter 18. BASIC PROVISIONS**

## **Article 153. Payers**

1. Payers of the individual income tax are the individuals who have the taxation objects, specified in accordance with Article 155 of this Code.

2. Payers of the gambling business tax, fixed tax shall not be the payers of the individual income tax on the income from thes of activities, specified in Articles 411, 420 of this Code.

3. The individual entrepreneurs, which apply the special tax regime for a peasant or farm enterprises, shall not be payers of the individual income tax on the income from thes of activities, to which this special tax regime is applied.

## **Article 154. Specifics of taxation of income of a foreigner and a stateless person who is a resident of the Republic of Kazakhstan**

1. Calculation, withholding and transfer of the individual income tax at the source of payment from the income of a foreigner or a stateless person, who is a resident of the Republic of Kazakhstan (hereinafter - foreign resident person), and submission of the tax reporting shall be performed by a tax agent in the order, established by this Chapter and Chapter 19 of this Code, taking into account the tax deductions and rates, specified by Articles 158 and 166 of this Code.

2. The income from the sources outside of the Republic of Kazakhstan which are receivable by a foreign resident person shall be subjected to taxation in the order, established by Article 178 and Chapter 27 of this Code.

**Footnote.** Article 154 as amended by the Laws of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

### **Article 154-1. The order of taxation of income of nonresident individuals**

Calculation, withholding and transfer of the individual income tax from the income of the nonresident individuals and submission of the tax reporting, shall be performed in the order, established by Chapter 25 of this Code.

**Footnote.** The Code is supplemented with Article 154-1 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

## **Article 155. Taxation objects**

1. The objects of taxation by the individual income tax are the incomes of an individual in the form of:

- 1) the income, taxable at the source of payment;
- 2) the income, which is not taxable at the source of payment.

2. Taxation objects shall be determined as the disparity between the taxes, which are subjected to taxation, taking into account the adjustments, provided by Article 156 of this Code and tax deductions in the cases, order and amount, provided by this part.

3. The following shall not be considered as the income of an individual:

- 1) the targeted social assistance, allowances and compensations paid from the budget in the amounts, established by the legislation of the Republic of Kazakhstan;
- 2) a compensation for harm, caused to life and health of an individual in accordance with the legislation of the Republic of Kazakhstan;

3) the compensations to employees in cases when their work is connected with traveling, related to business trips within the service area, - in the amount of 0,35 of the monthly calculation index established by the Law on the Republican Budget and which operates on the date of charging of such payments for each day of this work;

4) the compensations for business trips, including those, for the purposes of education, advanced training or retraining of an employee in accordance with the legislation of the Republic of Kazakhstan, unless otherwise provided by this Article:

established in sub-paragraphs 1), 2) and 4) of Article 101 of this Code;

for business trips within the Republic of Kazakhstan - daily allowances are no more than 6-fold of the monthly calculation index, defined by the Law of the Republican Budget and which operates as of January 1 of the appropriate financial year for every day for the period no longer than forty days;

for a business trip outside the Republic of Kazakhstan - daily allowances are no more than 8-fold of the monthly calculation index, defined by the Law of the Republican Budget and which operates on January 1 of the appropriate financial year for each day for no longer than forty days;

5) compensations for business trips, including those for the purposes of education, advanced training or retraining of an employee in accordance with the legislation of the Republic of Kazakhstan, which are performed by the state institutions, except for the state institutions, financed from the budget (scheme of expenses) of the National Bank of the Republic of Kazakhstan in the amounts, set by the legislation of the Republic of Kazakhstan;

6) compensations for business trips, including those for the purposes of education, advanced training or retraining of an employee in accordance with the legislation of the Republic of Kazakhstan, which are performed by state institutions, financed from the budget (scheme of expenses) of the National Bank of the Republic of Kazakhstan in the amounts and in the order, specified by the legislation of the Republic of Kazakhstan;

7) compensations for expenses, which are documentarily confirmed for travel, property transportation, rent of accommodation for the period of no longer than thirty calendar days, in transfer of an employee to work in another area or in moving to another location together with an employer;

8) the expenses of an employer, which are not related to the activity, aimed at receiving income and not deductible and which shall not be distributed to certain individuals;

9) the field allowances of employees, engaged in geological exploration, topographic and geodetic, and survey works in the field, - in twofold of the monthly calculation index, established by the Law on the Republican Budget and which operates on January 1 of the appropriate financial year for each day of this work;

10) the expenses of an employer for life support of persons, working under a rotation system, during their stay at the production facility with provision of conditions for execution of works and rest between the rotation shifts:

for rent of housing;

for meals within the daily allowances, specified in sub-paragraph 4) of this paragraph;

11) the expenses which are connected with delivery of employees from the location of their residence (stay) in the Republic of Kazakhstan to the location of work and back ;

12) the cost of the given special clothing, shoes, other means of individual protection and first aid, soap, disinfectants, milk, or other equivalent food for therapeutic and preventive nutrition according to the standards, established by the legislation of the Republic of Kazakhstan;

13) the insurance payments under the obligatory insurance contracts for employees from accidents when executing labor (service) duties, concluded by an employee in accordance with the legislation of the Republic of Kazakhstan, regulating the obligatory of insurance;

14) the amount of compensation for material damages, awarded by a court decision ;

15) the amounts of dividends, remunerations, winnings previously taxed with the individual income tax at the source of payment if the documents, confirming withholding of the tax at the source of payment are presented;

16) the amounts of contributors' pension savings of the pension funds, which were sent to insurance companies on life insurance for payment of insurance remunerations for a concluded contract of accumulative insurance (annuity), and redemption amounts under the pension annuity contracts, sent to insurance companies pursuant to the order, specified by the legislation of the Republic of Kazakhstan;

17) the amount of fines, charged for the delayed withholding (charge) and (or) transfer of obligatory pension contributions and social contributions in the amounts, established by the legislation of the Republic of Kazakhstan;

18) the cost of property, received in the form of humanitarian aid;

19) the increase of the cost in realizing motor vehicles and trailers, which are subjected to the state registration in the Republic of Kazakhstan and which are on the right of ownership for one year and more from the date of the ownership right's registration;

20) the increase of the cost in realizing housing, summer cottages, garages, objects of personal subsidiary farming, located in the Republic of Kazakhstan on the right of ownership for one year and more from the date of the ownership right's registration;

21) the increase of the cost in realizing land and (or) land shares, located in the Republic of Kazakhstan under the right of ownership for one year and more which are provided for individual housing construction, private farming, cottage construction, for garage on which there are facilities, specified in sub-paragraph 1) of paragraph 2 of Article 180 of this Code;

22) the increase of the cost in realizing land and (or) land shares, located in the Republic of Kazakhstan and those, provided for individual housing construction, private farming, gardening, cottage construction, for garage, on which there are facilities, specified in sub-paragraph 1) of paragraph 2 of Article 180 of this Code in case if the period is one year or more between the dates of composition of the legal documents on purchase and on alienation of the land and (or) the land share;

23) the increase of the cost of property, bought out for the state needs in accordance with the legislation of the Republic of Kazakhstan;

24) reimbursement of expenses of an individual-lessor for maintenance and reparation of the leased property and expenses of a lessor for maintenance and reparation of the property which is leased from an individual;

25) the excess of the market value of the underlying asset of an option in the moment of the option's execution over the cost of the option's execution. The cost of an option execution is the cost for which the underlying asset of an option was fixed in the appropriate document under which the option was provided to an individual;

26) the cost of the property, gratuitously transferred to an individual in the form of advertisement within 2-fold of the monthly calculation index, established by the Law of the Republican Budget and which operates on the date of this property's transfer;

27) representation costs for the reception and service of persons, incurred in accordance with Article 102 of this Code;

28) pecuniary gain from savings on the remuneration for use of credits (loans, micro-credits), received from legal entities and individual entrepreneurs, including those, received from an employer by its employee.

**Footnote. Article 155 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (the order of enforcement see Article 2); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2); dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).**

## **Article 156. Income which is not subjected to taxation**

1. The followings of taxes shall be excluded from the income of an individual, subjected to taxation:

1) alimonies received for children and dependents;

2) remunerations paid to individuals for their deposits in banks and organizations, performing banking operations on the basis of the license;

3) remunerations for debt securities;

4) remunerations for state issue-grade securities, agency bonds;

4-1) the income from increase of the cost when undertaking the realization of the state issue-grade securities;

4-2) the income from increase of the cost when undertaking the realization of the agency bonds;

5) the dividends and remunerations for the securities which are on the official list of the Stock Exchange, operating in the Republic of Kazakhstan, on the date of distribution of these dividends and remunerations;

6) the income for shares of mutual investment funds when buying them out by the governing company of this fund;

7) the dividends under the simultaneous fulfillment of the following conditions:

a taxpayer shall possess the shares and participation shares, for which the dividends are paid, for more than three years on the date of distribution of the dividends;

a legal entity which pays the dividends shall not be a subsoil user in the period, for which the dividends are paid;

more than 50 percent of the cost of a legal entity's assets, which pays the dividends, on the date of payment of the dividends are the property of a person (persons), who is (are) not a subsoil user (users).

The provisions of this paragraph shall be applied to the dividends, received from a resident legal entity in the form:

of income, payable for shares, including the shares which are the basic assets of the depository receipts;

of a part of the net income which is distributed by a legal entity among its founders, participants;

of income from distribution of property during liquidation of a legal entity or during reduction of the authorized capital by the proportional reduction of the size of contributions of the founders, participants or by full or partial repayment of shares of the founders, participants, and when a founder, participant withdraws a share of participation in the legal entity, except for the property, transferred by the founder, participant in the authorized capital in the form of contribution.

At that, the share of property of the persons (person) who are (is) subsoil users (a subsurface user) in the value of assets of a legal entity which pays dividends, shall be determined in accordance with Article 197 of this Code;

8) all of payments to military servicemen when performing duty of military service, to employees of special state bodies, to employees of law enforcement

agencies, to whom, in the established order, the special rank was given, which are received by them in connection with the official duties;

8-1) *excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467 -IV (shall be enforced from 01.01.2012);*

8-2) alls of payments, receivable in connection with performance of the official duties in other troops and military units, law enforcement agencies (except for customs bodies) by the persons whose rights to have military, special ranks, ranks and to wear uniforms were abolished from January 1, 2012;

9) winnings on a lottery within 50 percent of the minimum wage rate, established by the Law of the Republic of Kazakhstan on the Republican Budget and which operates on the date of distribution of these winnings;

10) the payments in connection with the execution of public works and professional education, performed at the expense of the budget and (or) grants in the minimum wage rate, established for the appropriate financial year by the Law of the Republic of Kazakhstan on the Republican Budget and which operates on the date of this payment;

**Note of the RCLI!**

*This wording of sub-paragraph 11) shall operate from 01.01.2009 to 01.01.2016 ( see Article 2 of the Law of the Republic of Kazakhstan dated 19.03.2010 No. 258-IV).*

11) the payments from a grant (except for the payments in the form of salaries), unless otherwise provided by sub-paragraph 11-1) of this paragraph;

**Note of the RCLI!**

*Sub-paragraph 11-1) shall be enforced from 01.01.2009 and operate until 01.01.2016 (see Article 2 of the Law of the Republic of Kazakhstan dated 19.03.2010 No. 258-IV).*

11-1) the payments which are made from a grant under an international agreement, which the Republic of Kazakhstan is a party to, aimed to support (assist) the low-income citizens in the Republic of Kazakhstan;

12) the payments in accordance with the legislation of the Republic of Kazakhstan on social security of the citizens, who suffered from an ecological disaster or nuclear tests at a nuclear test site;

13) the income for a year within 55-fold of the minimum wage rate, established by the Law of the Republic of Kazakhstan on the Republican Budget and which operates at of the beginning of the appropriate financial year of the following persons:

The World War II veterans and equivalent persons;

the persons, awarded with the orders and medals of the former Soviet Union for hard work and impeccable military service in the rear during the World War II;

the persons, who worked (served) for no less than 6 months from June 22, 1941 to May 9, 1945 and who are not awarded with the orders and medals of the former Soviet



Union for hard work and impeccable military service in the rear during the World War II;

the disabled persons of I, II, III groups;

a disabled child;

one of the parents of a person, who falls under the category of "a disabled child" - until such person reaches eighteen years of age;

one of the parents of a person, recognized as the disabled because of the "disability since childhood," - during the life of such person;

14) *excluded by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010);*

15) the income from increase of the cost when undertaking the realization of the assets, shares of participation in a legal entity or a consortium. This sub-paragraph shall be applied under the simultaneous fulfillment of the following conditions:

a taxpayer shall possess these assets and participation shares for more than three years on the date of realization of the assets and the participation shares;

a legal entity - issuer or a legal entity, a share of participation in which is realized, or a participant of a consortium who realizes the share of participation in this consortium shall not be a subsoil user;

more than 50 percent of the cost of assets of a legal entity - issuer or a legal entity, a participation share in which is realized, or the total cost of assets of a consortium participants, a share of participation in which is realized, on the date of this realization are the property of the persons (person), who are not the subsoil users (a subsoil user);

16) the income from increase of the cost when undertaking via the method of open tendering at the Stock Exchange, which operates in the Republic of Kazakhstan, the realization of the securities which are on the official list of this Stock Exchange on the date of the realization;

17) simultaneous payments from the budget (except for the payments in the form of salaries);

18) the payments for covering of medical services (except for cosmetology), for childbirth, for burial within 8-fold of the minimal amount of the salary, established by the Law of the Republic of Kazakhstan on the Republican Budget and which operates as of January 1 of the appropriate financial year for each of payments during a calendar year.

The specified income shall be exempted from taxation when possessing the documents, confirming receipt of medical services (except for cosmetology) and actual expenses for their payment, a child's birth certificate, a death certificate;

19) the official income of diplomatic or consular officials who are not citizens of the Republic of Kazakhstan;

20) the official income of foreigners who are in the public service of a foreign state where their income is subjected to taxation;

21) the official income in a foreign currency of the individuals who are the citizens of the Republic of Kazakhstan and who serve in diplomatic and equivalent representative offices of the Republic of Kazakhstan abroad, which are paid from the budget;

22) the pension payments from the State Center for Pension Payments;

23) remuneration for contributions to housing building savings (remuneration of the state), paid from the budget in the amounts, established by the legislation of the Republic of Kazakhstan;

24) expenses of an employer for sending an employee to education, advanced training or retraining in accordance with the legislation of the Republic of Kazakhstan in conformity with the specialization, related to the production activities of the employer:

when registering a business trip to another area - the actually incurred expenses of the employer for education, advanced training or retraining of the employee;

without registering a business trip to another area:

the actually incurred expenses for education, advanced training or retraining of the employee;

the actually incurred expenses of the employee for accommodation within the standards, established by the Government of the Republic of Kazakhstan;

the actually incurred expenses for the journey to a place of education, in case of the enrollment, and back, after completion of the education, advanced training or retraining of the employee;

the amount of money, allocated by the employer to the employee within:

6-fold of the monthly calculation index, established by the Law of the Republic of Kazakhstan on the Republican Budget and which operates on January 1 of the appropriate financial year, per day - during the period of study, advanced training or retraining of the employee within the Republic of Kazakhstan;

8-fold of the monthly calculation index, established by the Law of the Republic of Kazakhstan on the Republican Budget and which operates on January 1 of the appropriate financial year, per day - during the period of study, advanced training or retraining of the employee outside the Republic of Kazakhstan;

24-1) *excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2009);*

25) the expenses aimed at education, incurred in accordance with sub-paragraph 3) of paragraph 1 of Article 133 of this Code;

26) the social payments from the State Social Insurance Fund;

27) the scholarships, paid to the students in educational institutions in the amounts, established by the legislation of the Republic of Kazakhstan for the state scholarships;

28) the cost of property, received by an individual in the form of a gift or inheritance from another individual. The provisions of this sub-paragraph shall not be applied to the property, received by an individual entrepreneur to perform his/her activity and to the pension savings, inherited in the order, established by the legislation of the Republic of Kazakhstan which are paid by accumulative pension funds;

29) the cost of property, received in the form of charity and sponsorship;

30) the cost of route vouchers to summer camps for children under sixteen;

31) insurance payments connected with an insurance case which occurred in the period of a contract's operation, payable in any of insurance, except for the income, specified by Article 175 of this Code;

32) insurance remunerations which are paid by the employer under the contracts on obligatory and (or) accumulative insurance of its employees;

33) insurance remunerations performed in case of death of an insured person under the contracts of accumulative insurance;

34) the voluntary professional pension contributions to the accumulative pension funds in the amount, established by the legislation of the Republic of Kazakhstan;

35) *excluded by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009);*

36) the net income from an trust management of a founder of the trust management under a contract on trust management or beneficiary in other cases of the trust management which is received from a nonresident legal entity who is the trust manager ;

37) material gain from savings on remunerations which is received in provision of a bank loan to a holder of a payment card during the interest-free period, established in a contract, concluded between the bank and the client;

38) the amount, credited by a bank-issuer at the expense of the bank-issuer to the account of a holder of a payment card in performing his/her cashless payments using the payment card;

39) the dividends, received from the nonresident legal entity, specified in paragraph 1 of Article 224 of this Code, which are distributed from the income or a part of it, subjected to the individual income tax in the Republic of Kazakhstan in accordance with Article 224 of this Code;

40) the income from an investment deposit, which is placed in an Islamic bank;

41) material gain in the form of the following expenses actually incurred by the autonomous education institution, specified in paragraph 1 of Article 135-1 of this Code in respect of a foreign resident who is an employee of this organization or who works in the Republic of Kazakhstan and performs services of the organization for:

accommodation fees;  
medical insurance;  
air travel fees from the place of residence outside the Republic of Kazakhstan to the place of work in the Republic of Kazakhstan and back.

2. Exemption from the income taxation, defined by sub-paragraphs 12) and 13) of paragraph 1 of this Article shall be provided for the tax periods, for which there are the grounds for application of this exemption;

In case of presenting of the confirming documents, in which the date from which the ground for applications of adjustments occurs before the date of the income payment, a taxpayer (a tax agent) shall have the right to apply the adjustments, specified by sub-paragraphs 12) and 13) of paragraph 1 of this Article to the income for the tax period, for which there is the ground for application of these adjustments;

3. The income, provided by sub-paragraphs 12) and 13) of paragraph 1 of this Article, shall be excluded from the income which is subjected to taxation on the basis of:

the application of an individual to apply adjustments to the taxable income with the amount of such adjustments within the limits, set by this Article;

a copy of the confirming documents.

Footnote. Article 156 as amended by the Laws of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 19.03.2010 No. 258-IV (shall be enforced from 01.01.2009 and operate until 01.01.2016); dated 06.01.2011 No. 379-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 19.01.2011 No. 395-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9); dated 13.02.2012 No. 553-IV (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 15.02.2012 No. 556-IV (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

#### **Article 157. Nontaxable amount of the total annual income**

For the purposes of the state registration of the individual entrepreneurs in accordance with the legislation of the Republic of Kazakhstan, the amount of income, nontaxable with the individual income tax, subjected to taxation for a calendar year for an individual shall make 12-fold minimum wage rate, established by the Law on the Republican Budget and which operates on January 1 of the appropriate financial year.

Footnote. Article 157 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).

## **Article 158. Tax rates**

1. The income of a taxpayer, except for the income, specified in paragraph 2 of this Article, shall be taxable at the rate of 10 percent.

2. Income in the form of dividends, received from sources in the Republic of Kazakhstan and outside of it, shall be taxable at the rate of 5 percent.

## **Article 159. Tax period**

1. Tax period for calculation of the individual income tax by the tax agents from the income, taxable at the source of payment, is a calendar month.

2. Tax period for calculation of the individual income tax from the income, which is not taxable at the source of payment, shall be determined in accordance with Article 148 of this Code.

## **Chapter 19. THE INCOME TAXABLE AT THE SOURCE OF PAYMENT**

### **Article 160. The income, which is taxable at the source of payment**

Income which is taxable at the source of payment shall include the followings of income:

- 1) The income of an employee;
- 2) the income of an individual from a tax agent;
- 3) the pension payments from the accumulative pension funds;
- 4) the income in the form of dividends, remunerations, winnings;
- 5) the scholarships;
- 6) the income from saving insurance contracts.

### **Article 161. Calculation, withholding and payment of the tax**

1. Calculation of the individual income tax shall be performed by a tax agent on the income which is taxable at the source of payment in the taxable income calculating.

2. Withholding of the individual income tax shall be performed by a tax agent no later than the date of the income payment, taxable at the source of payment, unless otherwise provided by this Code.

3. A tax agent shall perform transfer of the individual income tax for the paid income no later than twenty five calendar days after the end of the month, in which the income payment was made, at its location, unless otherwise provided by this paragraph .

Transfer of the individual income tax shall be made to the appropriate budgets at the location of structural units for the income of an employee of the structural units of the tax agent.

A legal entity shall have the right by its decision to recognize its legal unit for the income, taxable at the source of payment and which is paid (payable) by this structural unit, as a tax agent for the individual income tax, withheld at the source of payment.

At that, the decision of the legal entity or cancellation of this decision shall come into force at the beginning of the quarter, following the quarter, in which this decision was made.

In case if a newly formed structural unit is recognized as a tax agent, the decision of a legal entity on the recognition shall be enforced from the date of creation of this structural unit or at the beginning of the quarter following the quarter, in which this structural unit was created.

For the purposes of part 12 of this Code, the structural units, recognized by the decision of a resident legal entity as a tax agent, shall be recognized as the independent payers of the social tax.

4. Calculation and withholding of the tax from income from depositary receipts shall be performed by an issuer of the underlying asset of these depositary receipts.

5. Deadlines for payment of the individual income tax by the tax agents, which apply the special tax regimes for subjects of small business on the basis of the simplified declaration and peasant or farmer enterprises, are established by Article 438 and 446 of this Code.

**Footnote. Article 161 as amended by the Laws of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 161-1. Specifics of calculation, withholding and payment of the tax by government institutions**

1. The structural units of a government body and (or) the territorial bodies may be considered as the tax agents on income of employees of the subordinate government institutions by the decision of the government body.

The structural units of a government body and (or) territorial (subordinate) bodies may be considered as the tax agents on income of employees of the subordinate institutions by the decision of the local executive body.

At that, for the purposes of part 12 of this Code, the government institutions, recognized in the order, established by this Article as the tax agents, shall be recognized as the payers of the social income tax.

The tax payment shall be performed to the appropriate budgets at the location of a tax agent.

2. Calculation, withholding and payment of the individual income tax shall be performed by a tax agent in the order and within the deadlines, established by Articles 161, 163 - 167 of this Code.

3. The declaration for the individual income tax and the social tax shall be submitted by a tax agent in the order and within the deadlines, specified by Article 162 of this Code.

**Footnote.** The Code is supplemented with Article 161-1 in accordance with the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010).

#### **Article 162. The declaration for the individual income tax and the social tax**

1. The declaration for the individual income tax and the social tax for the citizens of the Republic of Kazakhstan shall be submitted to the tax bodies at the location of the tax payment no later than the 15th of the second month, following the accounting quarter.

1-1. The declaration for the individual tax and the social tax for foreigners and stateless persons shall be submitted by a tax agent to the tax bodies at the location of the tax payment quarterly no later than the 15th of the second month, following the quarter, which includes the reporting tax periods.

2. The tax agents, applying the special tax regimes for farm and peasant enterprises and for subjects of small business on the basis of the simplified declaration, shall not submit the declaration for the individual income tax and the social tax for the activity, to which these regimes are applied.

2-1. The tax agents, who have structural units, shall submit the attachment on calculation of the amount of the individual income tax and the social tax on a structural unit to the declaration for the individual income tax and the social tax to a tax body at the location of the structural unit.

**Footnote.** Article 162 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

#### **§ 1. Income of an employee**

#### **Article 163. The income of an employee**

1. An employee's Income which is taxable at the source of payment shall be determined as the disparity between the employee's income, distributed by an employer, which is taxable, taking into account the rates, specified by Article 156 of this Code and the amount of the tax deductions, defined by Article 166 of this Code.

2. Unless otherwise provided by this Article, the taxable income of an employee is any income, received by the employee from an employer in monetary or natural form, including the income, received in the form of material gain, and the income on the civil contracts, concluded in accordance with the legislation of the Republic of Kazakhstan between the employer and the third persons from which the employee receives the income, specified in Articles 164, 165 of this Code.

3. Taxable income of an employee is not:

- 1) the pension allowances from the accumulative pension funds;
- 2) the income in the form of dividends, remunerations, winnings;
- 3) the income on accumulative insurance contracts;
- 4) the income which is not taxable at the source of payment, determined by Article 177 of this Code;
- 5) the payments to employees for purchase of their personal property;
- 6) *excluded by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009).*

**Footnote. Article 163 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009).**

#### **Article 164. Income of an employee in a natural form**

1. Taxable income of an employee, received in a natural form shall include:

- 1) salaries in a natural form;
- 2) the cost of the property, gratuitously received from an employer. The cost of gratuitously executed works, provided services shall be determined in the amount of the expenses, incurred in connection with fulfillment of works, provision of services;
- 3) the cost of goods, executed works, provided services, paid by an employer and received by an employee thorough the third persons.

2. The taxable income of an employee, received in a natural form is the cost of the goods, executed works, provided services, specified in paragraph 1 of this Article including the appropriate amount of the value-added tax and excise.

#### **Article 165. An employee's income in the form of a material gain**

Taxable income of an employee, received in the form of material gain shall also include:

- 1) negative disparity between the cost of goods, works, services, realized to an employee and the cost of purchase or the net cost of these goods, works, services;
- 2) the writing-off of the debt or an obligation of the employee by the decision of an employer;



3) the expenses of an employer for payment of insurance bonuses on the contracts on insurance of its employees;

4) the expenses of an employer for reimbursement of expenses of an employee which are not connected with the employer's activity.

#### **Article 166. Tax deductions**

1. In determination of the employee's income, taxable at the source of payment, the following tax deductions shall be performed for each month during a calendar year regardless of periodicity of the payments:

1) the amount of the minimum wage rate, established by the Law on the Republican Budget and which operates on the date of the tax calculation in the appropriate month, for which the tax is calculated. The total amount of a tax deduction for a year shall not exceed the amount of the minimum wage rate, established by the Law of the Republic of Kazakhstan on the Republican Budget and which operates at the beginning of each month of the current year;

2) the sum of the obligatory pension contributions in the amount, established by the legislation of the Republic of Kazakhstan on pension provision;

3) the amount of voluntary pension contributions made in his/her favor;

4) the amount of insurance remunerations made in his/her favor by an individual under the accumulative insurance agreements;

5) the amounts, aimed at repayment of a remuneration for the loans, received by an individual-resident of the Republic of Kazakhstan from the Housing Construction Saving Banks to improve the living conditions in the Republic of Kazakhstan in accordance with the legislation of the Republic of Kazakhstan on housing construction savings;

6) the expenses for covering of medical services (except for cosmetology) in the amount and under the conditions, established by paragraph 6 of this Article.

2. If the amount of the tax deduction, provided by sub-paragraph 1) of paragraph 1 of this Article, exceeds the determined amount of employee's taxable income per month, taking into account the adjustments, provided by Article 156 of this Code, reduced by the amount of obligatory pension contributions, the amount of the excess shall be consecutively transferred to the following months within a calendar year for reduction of the taxable income of the employee.

In changing of an employer during a tax period, except for the cases of its reorganization, the amount of the excess, formed for the period of the previous employer, shall not be taken into account in a new employer.

3. In case if an individual was an employee for less than sixteen calendar days during the month, in accordance with sub-paragraph 1) of paragraph 1 of this Article the tax deduction shall not be performed in determination of the employee's income.

4. In accordance with 1), 3) - 6) of paragraph 1 of this Article the right for the tax deduction shall be provided to a taxpayer for the income, received from one of the employers only on the basis of his/her submitted application.

5. The right for the tax deductions, established by sub-paragraphs 3) - 5) of paragraph 1 of this Article, shall be provided if the appropriate documents are provided :

1) a contract on pension provision by voluntary pension contributions and a document, confirming the payment of voluntary pension contributions;

2) an insurance contract and a document, confirming the payment of insurance bonuses;

3) a contract on a bank loan with a Housing Construction Saving Bank to improve living conditions in the territory of the Republic of Kazakhstan and a document, confirming the repayment of remuneration for the specified loan.

6. The right for the tax deduction, established by sub-paragraph 6) of paragraph 1 of this Article, shall be given to a taxpayer under the following conditions:

1) the total amount of a tax deduction, provided in accordance with sub-paragraph 6) of paragraph 1 of this Article and the amount of the adjustment, provided in accordance with sub-paragraph 18) of paragraph 1 of Article 156 of this Code in the aggregate for a calendar year, shall not exceed 8-fold of the minimum wage rate, established by the Law on the Republican Budget and which operates on January 1 of the appropriate financial year.

2) an employer provided documents, confirming the receiving of medical services (except for cosmetology) and the actual expenses;

3) *excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).*

**Footnote. Article 166 as amended by the Laws of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

## **Article 167. Calculation and withholding of the tax**

The amount of the individual income tax on an employee's income, taxable at the source of payment, shall be calculated via applying of the rate, defined by paragraph 1 of Article 158 of this Code to the amount of the employee's income, taxable at the source of payment and which is determined by Article 163 of this Code.

## **§ 2. An individual's income from a tax agent**

### **Article 168. An individual's income from a tax agent**

1. An individual's income from a tax agent, which is taxable at the source of payment, shall be determined as the income of the individual from the tax agent, subjected to taxation, taking into account the adjustments, provided by Article 156 of this Code.

Unless otherwise provided by this Article, the taxable income of an individual from a tax agent is:

1) the income of a person under a contract of civil nature, concluded with a tax agent in accordance with the legislation of the Republic of Kazakhstan;

2) the payments to the individuals.

2. For the purposes of this Article, the taxable income shall not include:

1) the income, which is not taxable at the source of payment, established by Article 177 of this Code;

2) the payments of the individual for purchase of personal property from them;

3) the income, specified in sub-paragraphs 1) and 3) - 6) of Article 160 of this Code

;

4) *excluded by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009).*

**Footnote. Article 168 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009).**

## **Article 169. The calculated amounts of the tax**

The amount of the individual income tax shall be calculated via applying of the rate, established by paragraph 1 of Article 158 of this Code to the amount of the income of an individual from a tax agent, which is taxable at the source of payment and which is determined in accordance with Article 168 of this Code.

## **§ 3. Pension payments from the accumulative pension funds**

### **Article 170. Pension payments**

1. The income in the form of pension payments, taxable at the source of payment, shall be determined as the income in the form of pension payments, which is taxable taking into account the adjustments, specified by Article 156 of this Code, reduced by the amount of the tax deductions, provided by this Article. At that, the adjustments, provided by Article 156 of this Code and the tax deductions shall be performed by the accumulative pension fund only, performing the pension payments from the obligatory pension contributions.

The taxable income in the form of pension payments shall include the payments made by accumulative pension funds:

1) from the pension savings of the taxpayers, formed at the expense of the obligatory pension contributions and (or) voluntary professional pension contributions in accordance with the legislation of the Republic of Kazakhstan, and (or) the voluntary pension contributions in accordance with the conditions of a contract on pension provision at the expense of the voluntary pension contributions. For the allowances, specified by this paragraph, when determining the income in the form of the pension allowances, taxable at the source of payment, the applicable tax deduction is the amount of one minimum wage rate, established by the Law on the Republican Budget and operating on the date of the income distribution, for each month of the income distribution regardless the periodicity of the payment, unless otherwise provided by this Article.

2) in accordance with the legislation of the Republic of Kazakhstan to the individuals - the residents of the Republic of Kazakhstan who reached the retirement age and who are leaving or left the Republic of Kazakhstan for permanent residence in another country. The tax deduction in 12-fold of the minimum wage rate, established by the Law on the Republican Budget and operating on the date of the income accrual, shall be applied to the payments, provided by this sub-paragraph in determining the income in the form of pension payments, taxable at the source of payments, unless otherwise provided by this Article;

3) in accordance with the legislation of the Republic of Kazakhstan to the individuals - the residents of the Republic of Kazakhstan who are not reached the retirement age and who are leaving or left for permanent residence outside the Republic of Kazakhstan;

4) to the individuals in the form of pension savings, inherited in the order, established by the legislation of the Republic of Kazakhstan.

*2. Excluded by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).*

**Footnote. Article 170 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 171. Calculation of the amount of the tax**

The amount of the individual income tax shall be calculated via applying of the rate established by paragraph 1 of Article 158 of this Code to the amount of income in the form of pension payments, taxable at the source of payment, determined in accordance with Article 170 of this Code.

#### **§ 4. The income in the form of dividends, remunerations, winnings**

#### **Article 172. Calculation of the amount of the tax**

1. The amount of the individual income tax shall be calculated by applying the rates, established by paragraphs 1 and 2 of Article 158 of this Code to the amount of the calculated income in the form of the dividends, remunerations, winnings, taxable at the source of income.

The income in the form of dividends, remunerations, winnings, taxable at the source of income is the income in the form of the dividends, remunerations, winnings, paid by a tax agent and taxable, taking into account the adjustments, provided by Article 156 of this Code.

For the purposes of this part, the dividends shall also include the net income from a trust management of a founder of the trust management under an agreement on trust management or beneficiary in other cases of trust management, received from a legal entity which is the trust manager..

2. The sum of the withheld individual income tax in paying of a winning, a remuneration under the presence of the documents, confirming the withholding of this tax at the source of payments, shall be attributed to the set-off of the individual income tax, calculated for a tax period by an individual entrepreneur, who calculates and pays the taxes in the order, established by Articles 178 and 179 of this Code.

## **§ 5. Scholarship**

### **Article 173. Scholarship**

The income in the form of scholarship which is taxable at the source of payment shall be determined as the income in the form of scholarship, subjected to taxation, taking into account the adjustments, provided by Article 156 of this Code.

Unless otherwise provided by this Article, the income in the form of a scholarship, subjected to taxation, is the amount of money, assigned by a tax agent to:

the students of education institutions;

culture, science, media workers and other individuals.

The taxable income in the form of scholarship is not the income, specified by sub-paragraphs 1) - 4) and 6) of Article 160 of this Code.

### **Article 174. Calculation of the amount of the tax**

The amount of the individual income tax shall be calculated via applying of the rate , established by paragraph 1 of Article 158 of this Code to the amount of income in the form of a scholarship, taxable at the source of payment.

## **§ 6. Income on accumulative insurance contracts**

### **Article 175. Income on accumulative insurance contracts**

1. The income on accumulative insurance contracts, taxable at the source of payment, shall be determined as the disparity between the incomes on accumulative insurance contracts, which is taxable taking into account the adjustments, provided by Article 156 of this Code and the tax deduction in the cases and in the amount, specified by this Article.

2. The taxable income on accumulative insurance contracts is:

1) the insurance payments made by the insurance companies, insurance bonuses of which were paid:

from the pension savings in the accumulative pension funds The tax deduction in the amount of one minimum wage rate, established by the Law on the Republican Budget and operating on the date of the income distribution for each month of the income accrual shall be applied to the payments, in determining the income under the accumulative insurance contracts, taxable at the source of payments, regardless of periodicity of payments;

from insurance premiums made in his/her favor by an individual under a contract on accumulative insurance;

from insurance bonuses, made by an employer in favor of an employee under a contract on accumulative insurance;

2) repurchasing amounts, paid in case of early termination of these contracts;

3) an excess of the amount of insurance payments made by an insurance company over the amount of insurance premiums which are paid from the funds, specified in sub-paragraph 1) of this Article;

**Footnote. Article 175 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 176. Calculation of the amount of the tax**

The amount of the individual income tax shall be calculated via applying of the rate, defined in paragraph 1 of Article 158 of this Code to the amount of the income on contracts of accumulative insurance, taxable at the source of payment, determined in accordance with Article 175 of this Code.

### **Chapter 20. INCOME WHICH IS NOT TAXABLE AT THE SOURCE OF PAYMENT**

#### **Article 177. Income which is not taxable at the source of payment**

The income which is not taxable at the source of payment shall include the followings of income:

1) the property income;

2) the income of an individual entrepreneur;

3) the income of private notaries, private enforcement agents and lawyers;

4) the other incomes.

The property income is not the income, specified in sub-paragraphs 2) and 3) of the first part of this Article.

The other income is not the income, specified in sub-paragraph 1), except for the income, coming from sources outside the Republic of Kazakhstan, and sub-paragraphs 2) and 3) of the first part of this Article.

**Footnote. Article 177 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 02.04.2010 No. 262 -IV (shall be enforced from 21.10.2010).**

**Article 178. Calculation of the individual income tax on income which is not taxable at the source of income**

1. Unless otherwise provided by Article 182 of this Code, the calculation of the individual income tax on income which is not taxable at the source of payment shall be personally performed by a taxpayer for a tax period via applying of the rate, established by paragraph 1 of Article 158 of this Code to the taxable amount of the appropriate income, which is not taxable at the source of payment, except for the taxpayers, specified in paragraphs 4 and 5 of this Article.

At that, the amount of the calculated individual income tax shall be reduced by the amount of the individual income tax, for which the set-off is performed in accordance with Article 223 of this Code.

The taxable amount of the appropriate income which is not taxable at the source of payment shall be determined as the disparity between the income, which is taxable taking into account the adjustments, provided by Article 156 of this Code and the tax deductions, established by paragraph 1 of Article 166 of this Code, taking into accounts the provisions of paragraphs 5 and 6 of Article 166 of this Code.

2. If a taxpayer has severals of income, which is not taxable at the source of payment, except for the income of private notaries, private enforcement agents and lawyers, the calculation of the individual income tax shall be personally performed by the taxpayer when applying the rate, established by paragraph 1 of Article 158 of this Code to the amount of alls of income, which are taxable at the source of payment.

3. The tax deductions, established by paragraph 1 of Article 166 of this Code shall be applied in calculating the individual income tax on the total amount of income which is not taxable at the source of payment in the case, if the specified deductions were not performed when determining the income of an employee.

4. The individual entrepreneurs, except for those, specified in paragraph 5 of this Code, shall personally calculate the income tax of an individual entrepreneur for a tax period. The amount of the tax shall be calculated via applying of the rate, established by paragraph 1 of Article 158 of this Code to the income of the individual entrepreneur



, reduced by the amount of the income and the expenses, provided by Article 133 of this Code, and the amount of the losses, incurred in accordance with Article 137 of this Code.

At that, the amount of the calculated individual income tax shall be reduced by the amount of the individual income tax, for which the set-off is performed in accordance with Article 223 of this Code.

5. Individual entrepreneurs, who apply the special tax regime for subjects of small business on the basis of the patent or the simplified declaration, shall calculate the individual income tax on income which is taxable within the specified tax regimes in accordance with the Chapter 61 of this Code.

**Footnote. Article 178 as amended by the Laws of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2009).**

### **Article 179. Deadlines for tax payment**

1. Payment of the individual income tax for a tax period shall be personally made by a taxpayer at the location (residence) no later than ten calendar days after the deadline, established for submission of the declaration for the individual income tax.

2. The individual entrepreneurs, who apply the special tax regime for subjects of small business on the basis of the patent and the simplified declaration, shall pay the individual income tax for the income, which is taxable within the specified tax regime in accordance with Article 61 of this Code.

**Footnote. Article 179 as amended by the Law of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2).**

### **§ 1. Property income**

#### **Article 180. Property income**

1. The taxable property income shall include:

1) the income from increase of the cost when undertaking the realization of the property;

2) the income, received from leasing property to the persons who are not the tax agents.

2. The income from increase of the cost in realizing property is the increase of the cost in realizing the following property:

1) dwellings, summer cottages, garages, facilities of private farming which are on the right of ownership for less than a year from the date of the ownership right's registration;



2) the land and (or) land shares, provided for individual housing building, private farming, summer cottage building, for garage, on which there are the facilities, specified in sub-paragraph 1) of this paragraph and which are on the right of ownership for less than a year from the date of the ownership right's registration;

3) the land and (or) land shares, provided for individual housing construction, private farming, summer cottage building, for garage, on which there are the facilities, specified in sub-paragraph 1) of this paragraph in case that the period between the dates of composing legal documents for acquisition and for disposition of the land and (or) land share is less than a year;

4) the land and (or) land shares, provided for the purposes, which are not specified in sub-paragraphs 2) and 3) of this paragraph;

5) the securities, investment gold, and participation shares;

6) the real estate, except for the real estate, specified in sub-paragraphs 1) - 4) of this paragraph;

7) the motor vehicles and trailers, which are subjected to the state registration and which are on the right of property for less than a year from the date of the ownership right's registration.

In case of realization of a motor vehicle and (or) trailer, received on the basis of the warrant to operate the motor vehicle and (or) the trailer with the right of disposition for determination of the property income, a person, who is entrusted, shall inform the owner of the motor vehicle about the cost, for which this motor vehicle was realized, or shall pay the individual income tax on behalf of the owner of the motor vehicle, which is the fulfillment of the tax obligation of the motor vehicle's owner.

In case when an attorney realizes a motor vehicle and (or) a trailer, received on the basis of the warrant to operate the motor vehicle and (or) the trailer with the right of disposition, the increase of the cost shall be determined as the positive disparity between the realization of this motor vehicle by the person, who is entrusted on behalf of the owner and the cost of purchase by the owner of the realized motor vehicle.

3. The income from increase of the cost when realizing the property, specified in paragraph 2 of this Article, except for the securities and a participation share, is the positive disparity between the cost of realization of the property and the cost of purchase, unless otherwise provided by this Code.

In absence of the cost of purchase, the increase of the cost is the positive disparity between the cost of realization of property and the market value on the date when the ownership right for the realized property appeared.

4. In realization of the real estate, purchased through share participation in a housing construction, the increase of the cost is the positive disparity between the cost of realization and the cost of the contract on the share participation in the housing construction.

In realization of the real estate, purchased through the concession of the right of claim for a share in a residential building under the contract on share participation in a housing construction, the increase of the cost is the positive disparity between the cost of realization of the property and the cost, for which a taxpayer purchased the right of claim for the share in the residential building under the contract on the share participation in the housing construction.

5. The market value of the realized property, specified in sub-paragraphs 1) and 6) of paragraph 2 of this Article on the date when the ownership right appeared, shall be determined by a taxpayer no later than the deadline, established for submission of the declaration for the individual income tax.

For the purposes of this paragraph, the market value is the cost, determined in a report on evaluation, performed under a contract between an appraiser and a taxpayer in accordance with the legislation of the Republic of Kazakhstan on evaluation activity.

6. In case, if there is no market value of the realized property, established in paragraph 5 of this Article, the increase of the cost is:

1) for the property, specified in sub-paragraph 1) of paragraph 2 of this Article, - the positive disparity between the cost of the property and the evaluation cost of the property. At that, the evaluation cost is the cost, determined for calculation of the property tax by an authorized state body in the sphere of state registration of the ownership rights for a real estate on January 1 of the year when the ownership right for the property appeared;

2) for the property, specified in sub-paragraph 6) of paragraph 2 of this Article, - the cost of realization of this property.

7. Increase of the cost when undertaking the realisation of the securities and a participation share shall be determined in accordance with paragraphs 5 and 6 of Article 87 of this Code, unless otherwise provided for by this Article.

8. Increase in the cost when undertaking the realisation of the securities, purchased by an individual on the option, is the positive disparity between the cost of realization and the cost of purchase. The cost of purchase shall include the cost of fulfillment of the option and the expenses for the purchase of the option.

**Footnote. Article 180 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.12.2009 No 234 -IV (shall be enforced from 01.01.2009); dated 26.11.2010 No. 356-IV (shall be enforced from 01.01.2011); dated 25.03.2011 No. 421-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).**

## **§ 2. Income of private notaries, private enforcement agents and lawyers**

Footnote. The title as amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).

#### **Article 181. Income of private notaries, private enforcement agents and lawyers**

Footnote. The title as amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).

The income of the private notaries, private enforcement agents and lawyers is all of income, received from activity for implementation of the court orders, notary and lawyer services, including the payment for legal assistance, notarial services, and the amount of reimbursements, related to protection and representation.

Footnote. Article 181 as amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).

#### **Article 182. Calculation and payment of the tax**

1. The amount of the individual income tax on income of private notaries, private enforcement agents and lawyers shall be calculated for the income, received in a month upon the results of each month via applying of the rate, established by paragraph 1 of Article 158 of this Code to the amount of the received income.

2. The amount of the calculated tax shall be paid on a monthly basis no later than the 5th of the month, following the month, for which the income tax was calculated.

Footnote. Article 182 as amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).

### **§ 3. Income of an individual entrepreneur**

#### **Article 183. Income of an individual entrepreneur**

1. The taxable income of an individual entrepreneur shall be determined in the order, established for determination of the object, taxable on the corporate income tax in accordance with Articles 83 - 133, 136, 137 and 224 of this Code, and taking into account the adjustments, provided by Article 156 of this Code and the tax deductions, established by paragraph 1 of Article 166 of this Code, taking into account the provisions of paragraphs 5 and 6 of Article 166 of this Code, unless otherwise provided by this Article.

1-1. In determination of the taxable income of an individual entrepreneur in accordance with paragraph 1 of this Article, the provisions of sub-paragraphs 2), 3), 3-1), 3-2), 6) and 7) of paragraph 2 of Article 133 of this Code shall not be applied.

2. The income of an individual entrepreneur, who applies the special tax regime for subjects of small business on the basis of the patent and the simplified declaration, shall be determined in accordance with Article 61 of this Code.

Footnote. Article 183 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).

#### **§4. Other income**

##### **Article 184. Other income**

1. The other taxable income of a taxpayer shall include:

- 1) the income, received from the sources outside the Republic of Kazakhstan;
- 2) the income of the citizens of the Republic of Kazakhstan under the labor agreements (contracts) and (or) contracts of civil nature, concluded with the diplomatic and equivalent representative offices of a foreign state, consular offices of a foreign state, accredited in the Republic of Kazakhstan, who are not the tax agents;
- 3) the income of domestic employees, received under the labor agreements, concluded in accordance with the labor legislation of the Republic of Kazakhstan;
- 4) the income from a concession of the right of claim for a share in a residential building under a contract on share participation in a housing construction;
- 5) the income of the citizens of the Republic of Kazakhstan under the labor agreements (contracts) and (or) contracts of civil nature, concluded with the international and government organizations, foreign and Kazakh non-governmental public organizations and funds, which are exempted from the obligation to calculate, withhold and transfer the individual income tax at the source of payment in accordance with the international agreements, ratified by the Republic of Kazakhstan.

2. Taxation of the income, specified in sub-paragraph 1) of paragraph 1 of this Article, shall be performed taking into account the specifics, established by Chapter 27 of this Code.

3. The income from a concession of the right of claim for a share in a residential building under a contract on share participation in a housing construction is the positive disparity between the cost of the concession of the right of claim and the cost of the contract on share participation in a housing construction.

4. The income from a concession of the right of claim for a share of a residential building under a contract on share participation in a housing construction which was early purchased by concession of the right of claim under the contract on share participation in a housing construction is the positive disparity between the cost of the concession of the right of claim and the cost, for which he/she earlier purchased this right.

Footnote. Article 184 in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

## **Chapter 21. THE DECLARATION FOR THE INDIVIDUAL INCOME TAX**

### **Article 185. The declaration for the individual income tax**

1. The declaration for the individual income tax shall be submitted by the following resident taxpayers:

- 1) the individual entrepreneurs;
- 2) the private notaries, private enforcement agents, lawyers;
- 3) the individuals who receive property income;
- 4) the individuals who received other income, including the income outside the Republic of Kazakhstan;
- 5) the individuals who have money on bank accounts in foreign banks, located outside the Republic of Kazakhstan.

2. Deputies of the Parliament of the Republic of Kazakhstan, judges, and individuals, who are entrusted with the obligation to submit the declaration in accordance with the Constitutional Law of the Republic of Kazakhstan "On elections in the Republic of Kazakhstan ", the Criminal Executive Code of the Republic of Kazakhstan and the Law of the Republic of Kazakhstan "On fighting corruption" shall submit the declaration for income and property, which are the objects of taxation and which are located in the Republic of Kazakhstan, as well as outside the Republic.

3. The individual entrepreneurs, who apply the special tax regime for subjects of small business on the basis of the patent or the simplified declaration for the income, included in a taxation object in accordance with Article 427 of this Code, shall not submit the declaration for the individual income tax.

**Footnote. Article 185 as amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).**

### **Article 186. Deadlines for submission of the declaration**

The declaration for the individual income tax shall be submitted to a tax body at the location (residence) no later than March 31 of the year following the reporting tax period, except for the cases, provided by the Constitutional Law of the Republic of Kazakhstan "On elections in the Republic of Kazakhstan ", Criminal Executive Code of the Republic of Kazakhstan and the Law of the Republic of Kazakhstan "On Combating Corruption".

**Footnote. Article 186 as amended by the Laws of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2009).**

### **Article 187. Disconfirmation of payments of the tax**

In cases of disconfirmation of payment of the individual income tax by the taxpayers, who submit the declaration on the individual income tax in accordance with sub-paragraph 4) of paragraph 1 and paragraph 2 of Article 185 of this Code, the calculation of the individual income tax shall be performed via applying of the rate, established by paragraph 1 of Article 158 of this Code to the amount of the income, for which the payment of the individual income tax is not confirmed.

## **SECTION 7. SPECIFICS OF THE INTERNATIONAL TAXATION**

### **Chapter 22. BASIC PROVISIONS**

#### **Article 188. Basic principles of the international taxation**

1. Residents of the Republic of Kazakhstan shall pay taxes in the Republic of Kazakhstan for income from the sources in the Republic of Kazakhstan and outside the Republic in accordance with the provisions of this Code.

2. Nonresidents shall pay taxes in the Republic of Kazakhstan for the income, coming from the sources in the Republic of Kazakhstan in accordance with the provisions of this Code.

Nonresidents, who perform entrepreneurial activities in the Republic of Kazakhstan through a permanent establishment, shall pay taxes in the Republic of Kazakhstan for the income, coming from the sources outside the Republic of Kazakhstan, related to the activity of this permanent establishment.

3. Residents and nonresidents shall pay other taxes and other obligatory payments to the budget of the Republic of Kazakhstan, established by this Code, when these obligations appear.

**Footnote. Article 188 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 189. Residents**

1. For the purposes of this Code, the individuals who permanently reside in the Republic of Kazakhstan or who do not permanently reside in the Republic of Kazakhstan but whose center of vital interests is in the Republic of Kazakhstan shall be recognized as the residents of the Republic of Kazakhstan.

2. A legal entity shall be recognized as permanently residing in the Republic of Kazakhstan for the current tax period, if it is located in the Republic of Kazakhstan for no less than one hundred eighty tree calendar days (including the arrival and departure days) in any consecutive twelve-month period which ends in the current tax period.

3. The center of vital interests of an individual shall be considered as residing in the Republic of Kazakhstan under the simultaneous fulfillment of the following conditions:

1) an individual is a citizen of the Republic of Kazakhstan or he/she has a permission to reside in the Republic of Kazakhstan (residence permit);

2) a family and (or) close relatives of an individual reside in the Republic of Kazakhstan;

3) presence of a real estate in the Republic of Kazakhstan, which belongs to an individual and (or) members of his/her family under the ownership right and which is available any time for his/her residence and (or) residence of the members of his/her family.

4. Resident individuals, regardless of the time of their residence in the Republic of Kazakhstan and any other criteria, provided by this Article, are the individuals who are the citizens of the Republic of Kazakhstan, and those, who submitted an application for citizenship of the Republic of Kazakhstan or for permanent residence in the Republic of Kazakhstan without granting citizenship of the Republic of Kazakhstan:

1) who were sent abroad by the government bodies, including employees of diplomatic and consular institutions, international organizations, and family members of these individuals;

2) who are the crew members of vehicles, belonging to legal entities or citizens of the Republic of Kazakhstan, who perform regular international transportations;

3) who are military and civilian personnel of military bases, military units, groups, compounds or contingents, stationed outside the Republic of Kazakhstan;

4) who work at the facilities, located outside the Republic of Kazakhstan and owned by the Republic of Kazakhstan or subjects of the Republic of Kazakhstan (including those on the basis of concession contracts);

5) who are the students, trainees and interns outside the Republic of Kazakhstan with the purpose of training or practicing during the whole period of training or practice;

6) who are the teachers and researchers, outside the Republic of Kazakhstan with the purpose of teaching, counseling or conducting scientific works during the period of teaching or conducting these works;

7) who are outside the Republic of Kazakhstan with the purpose of treatment or passing health-improving, preventive procedures.

5. For the purposes of this Code, residents of the Republic of Kazakhstan are also the legal entities, created in accordance with the legislation of the Republic of Kazakhstan and (or) the legal entities, created in accordance with the legislation of a foreign state, the place of effective management (the location of the actual governing body) of which is located in the Republic of Kazakhstan.

The place of effective management (the location of the actual governing body) is a place of holding meetings of the actual body (board of directors or a similar body)



where basic management and (or) control is performed and strategic business decisions are made, necessary for implementation of entrepreneurial activity of a legal entity.

**Footnote. Article 189 as amended by the laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 190. Nonresidents**

1. For the purposes of this Code, the nonresidents are:

1) the individuals and legal entities who are not the residents in accordance with the provisions of Article 189 of this Code;

2) the foreigners or stateless persons who are recognized as nonresidents in accordance with the provision of an international agreement on avoidance of double taxation, despite the provisions of Article 189 of this Code.

2. *Excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).*

**Footnote. Article 190 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 191. A permanent establishment of a nonresident**

1. Unless otherwise provided by this Code, a permanent establishment of a nonresident in the Republic of Kazakhstan is one of the following places of the activity in the Republic of Kazakhstan, through which it performs an entrepreneurial activity in the Republic of Kazakhstan, regardless the time period in which the activity is carried out:

1) any place of production, processing, packaging arrangement, prepacking, packing and (or) supply of goods;

2) any place of management;

3) any place of geological study, exploration programs, preparatory works for mining and (or) mining and (or) control and (or) monitoring of exploration and (or) mining works;

4) any place of the activity (including control or observation) which is related to a pipeline;

5) any place of installation, mounting, assembly, setup, start-up of equipment. At that, the establishment shall be formed in fulfilling of at least one of these activities, specified in this sub-paragraph with subsequent maintenance of this equipment;



6) any place of the activity, related to installation, setup and exploitation of slot machines (including consoles), computer networks and communication channels, amusements, as well as that, related to transport or other infrastructure;

7) a place of realization of goods in the Republic of Kazakhstan, unless otherwise provided by paragraph 3 of this Article;

8) any place of building and (or) construction and installation works, as well as providing services to supervise the execution of these works;

9) location of an affiliate or a representative office, except for the representative office, specified in paragraph 4 of this Article;

10) location of a person, performing the mediation activities in the Republic of Kazakhstan on behalf of nonresidents in accordance with the Law of the Republic of Kazakhstan "On insurance activity";

11) location of a resident, who is a participant of an agreement on joint activity, concluded with the nonresident in accordance with the legislation of a foreign state or the Republic of Kazakhstan in case, if this joint activity is performed in the Republic of Kazakhstan.

2. Unless otherwise provided by paragraph 8 of this Article, a permanent establishment is a place of provision of services, execution of works through employees or other personnel, hired by a nonresident for these purposes, if the activity of this nature continues in the Republic of Kazakhstan for more than one hundred eighty three calendar days within any consequent twelve-month period from the date of the beginning of entrepreneurial activity within one project or the related projects, providing services, executing works in the Republic of Kazakhstan which are not specified in paragraph 1 of this Article.

For the purposes of this part, the related projects are the projects, contracts (agreements), which are interrelated and interdependent.

The interrelated contracts (agreements) are the contracts (agreements), which simultaneously correspond with the following conditions:

1) a nonresident or its interrelated party provides (executes) similar or uniform services (works) to the same tax agent or related party under these contracts (agreements);

2) the period of time between the date of completion of services (works) under the same contract (agreement) and the date of conclusion of another contract (agreement) shall not exceed twelve consequent months.

Contracts (agreements), concluded by a nonresident and its interrelated party with a tax agent or its interrelated party, non-fulfillment of the obligations of one of which by the nonresident or its interrelated party affects the fulfillment of the obligations by this nonresident or its interrelated party under another contract (agreement), shall be recognized as interrelated.

3. A nonresident shall form a permanent establishment in the Republic of Kazakhstan when realizing goods in exhibitions and trade fairs, held in the territory of the Republic of Kazakhstan, if this realization lasts for more than ten calendar days and other is not provided by paragraph 8 of this Article.

4. Carrying out of the activity of a preparatory or auxiliary character by a nonresident of the Republic of Kazakhstan, which differs from the underlying activity, shall not lead to the formation of a permanent establishment, if this activity lasts for no more than three years and other is not provided by paragraph 8 of this Article. At that, the activity of a preparatory or auxiliary character must be performed for the very nonresident, and not for the third parties. Preparatory and auxiliary activity shall include:

1) use of any place solely for the purpose of storage and (or) display of goods, belonging to the nonresident;

2) maintenance of a permanent place of the activity solely for the purpose of purchasing goods without their realization;

3) maintenance of a permanent place of the activity solely for collection, processing and (or) dissemination of information, advertisement or studying the market of goods, works, services realized by a nonresident, unless this activity is not the underlying activity of this nonresident.

5. If a nonresident performs entrepreneurial activity in the Republic of Kazakhstan through a dependent agent (an individual or a legal entity), this nonresident shall be considered as the one who has permanent establishment in connection with other activity, which is performed by this nonresident, regardless of the provisions of paragraphs 1 and 2 of this Article, unless otherwise provided by paragraph 8 of this Article.

For the purposes of this part, a dependent agent is a person who simultaneously corresponds with the following conditions:

1) it is authorized on the basis of contractual relations to represent interests of a nonresident in the Republic of Kazakhstan, to operate and (or) perform certain legal actions on behalf and at the expense of the nonresident;

2) the activity, specified in sub-paragraph 1) of this paragraph shall be performed by him not within the activity of a customs representative, a professional participant of the market of securities and other brokering activities (except for the activity of an insurance broker);

3) his activity shall not be limited by the set of activities, enumerated in paragraph 4 of this Article.

6. A subsidiary of a nonresident legal entity, created in accordance with the legislation of the Republic of Kazakhstan, shall be considered as a permanent establishment of the nonresident, if there are the relations between the subsidiary and

the nonresident legal entity, meeting the requirements of paragraph 5 of this Article. In other cases, a subsidiary of a nonresident legal entity shall not be considered as a permanent establishment of the nonresident legal entity.

7. Unless otherwise provided by paragraph 8 of this Article, a nonresident who provides foreign personnel for work in the territory of the Republic of Kazakhstan to a legal entity, including a nonresident, which operates in the Republic of Kazakhstan through a permanent establishment, does not form a permanent establishment on these services in the Republic of Kazakhstan under the simultaneous fulfillment of the following conditions:

1) if this personnel operates on behalf and in the interests of a legal entity, which it was provided to;

2) a nonresident who provides foreign personnel does not bear responsibility for the results of works of the provided personnel;

3) the income of a nonresident from provision of foreign personnel for a tax period, does not exceed ten percent of the total amount of the expenses of the nonresident for provision of this personnel for the specified period.

A nonresident shall be obliged to provide copies of the primary documents to confirm the cost of such services, including the income of the foreign personnel. For the purposes of calculating the corporate income tax from an income of the nonresident, who provides foreign personnel, these services of the nonresident shall be recognized as the services, provided outside the Republic of Kazakhstan under fulfillment of the conditions, established by this paragraph.

8. A nonresident, performing an entrepreneurial activity in the Republic of Kazakhstan, which leads to the formation of a permanent establishment, shall be obliged to register as a taxpayer in a tax body in the order, established by Article 562 of this Code.

In case, if a nonresident performs the entrepreneurial activity, which leads to the formation of two or more permanent establishments, which are subjected to registration in one tax body, the one permanent establishment in aggregate by a group of such permanent establishments of the nonresident shall be registered.

In case if a nonresident has a registered permanent establishment, which performs one of the activities, specified in paragraphs 2, 3, 4, 5 or 7 of this Article and which performs similar activity or the same activity at the place which is different from place of registration of this permanent establishment, the implementation of this activity shall lead to the formation of a permanent establishment and shall be subjected to registration from the date of the beginning of similar or the same activity.

In case, if a nonresident resumes the activity within a consequent twelve-month period after the date of exclusion of a permanent establishment of this nonresident from the state database of these taxpayers, this nonresident shall be recognized as the

one who formed a permanent establishment and shall be subjected to registration as a taxpayer from the date of implementation of this activity. The provisions of this part shall be applied in case, if the nonresident performs one of the activities, specified in paragraphs 2, 3 or 4 of this Article, which is the same or similar activity of the permanent establishment of this nonresident, who is excluded from the state database of these taxpayers.

9. In case if nonresidents perform the activity in the Republic of Kazakhstan under a contract on joint activity:

1) the activity of each participant of this contract shall form a permanent establishment, meeting the provisions, established by this Article;

2) fulfillment of the tax obligation shall be personally performed by each participant of this contract in the order, established by this Code.

10. The activity of a nonresident shall form a permanent establishment in accordance with the provisions of this Article regardless of absence of the registration of the nonresident in the tax bodies as a taxpayer or registration in the judicial bodies.

11. The date of commencement of activities by a nonresident in the Republic of Kazakhstan for the purposes of application of this Code is the date of:

1) conclusion of one of the following contracts (agreements) on:

execution of works, provision of services in the Republic of Kazakhstan;

authorization to perform actions on behalf of the nonresident in the Republic of Kazakhstan;

purchase of goods in the Republic of Kazakhstan for realization;

execution of works, provision of services in the Republic of Kazakhstan within a contract of joint activity;

purchase of works, services for the purposes of execution of the works, provision of the services in the Republic of Kazakhstan;

2) conclusion of the first labor agreement or other agreement of civil nature with an individual in the Republic of Kazakhstan or the date of arrival in the Republic of Kazakhstan of an employee to fulfill the conditions of the contract, specified in sub-paragraph 1) of this paragraph. At that, the date of beginning of performing the nonresident's activity in the Republic of Kazakhstan cannot be earlier than the one of the first dates, specified in this sub-paragraph;

3) entrance into force of a document, certifying the right of the nonresident to perform the activities, specified in paragraphs 3) and 4) of paragraph 1 of this Article.

If there are several conditions of this paragraph, the earliest of the dates, specified in this paragraph, shall be recognized as the date of the beginning of the activity in the Republic of Kazakhstan.

12. In case if a nonresident performs the activity through an affiliate or a representative office, which does not lead to the formation of a permanent

establishment in accordance with an international agreement on double taxation avoidance or paragraph 4 of this Article, the provisions of this Code, established for a permanent establishment of a nonresident, shall be applied to this affiliate or the representative office of the nonresident. At that, this affiliate or permanent establishment shall have the right to apply the provisions of an international agreement on double taxation avoidance in accordance with Article 217 of this Code.

**Footnote. Article 191 in the wording of the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 192. A nonresident's income from the sources in the Republic of Kazakhstan**

1. The income of a nonresident from the source in the Republic of Kazakhstan are the following:

1) the income from realization of goods in the Republic of Kazakhstan, and the income from export of goods, located in the Republic of Kazakhstan within the foreign trade activity;

2) the income from execution of works, provision of services in the Republic of Kazakhstan;

3) the income from provision of management, financial (excluding insurance and (or) re-insurance), consulting, auditing, legal (except for services on representation and protection of the rights and legitimate interests in courts, arbitration or arbitral tribunal, as well as the notary services) services outside the Republic of Kazakhstan.

For the purposes of this part, the financial services are the activity of participant of the insurance market, the market of securities, accumulative pension funds, banking activity, the activity of organizations, performing certain of banking operations, and the activity of the central depository and mutual insurance companies;

4) the income of a person, registered in a state with preferential taxation, which is determined by the Government of the Republic of Kazakhstan in accordance with Article 224 of this Code, from execution of works, provision of services regardless the place of their actual executions, provision, and other income, specified by this Article.

The provisions of this sub-paragraph shall not be applied to the income from tourist services, provided to an individual in the territory of a state with preferential taxation by a nonresident, registered in the territory of this state.

5) the income from increase of the cost when undertaking the realisation of:  
the property, located in the territory of the Republic of Kazakhstan, the rights for which or transactions with which shall be subjected to the state registration in accordance with the legislative acts of the Republic of Kazakhstan;

the property located in the territory of the Republic of Kazakhstan, which is subjected to the state registration in accordance with the legislative acts of the Republic of Kazakhstan;

the securities, issued by a resident, and shares of participation in the authorized capital of a resident legal entity, consortium, located in the Republic of Kazakhstan;

the shares issued by a nonresident, and shares of participation in the authorized capital of a nonresident legal entity, consortium, if 50 and more percent of the cost of these shares, shares of participation or assets of the nonresident legal entity is the property, located in the Republic of Kazakhstan;

6) the income from a concession of the right of claim for a debt to a resident or a nonresident, working in the Republic of Kazakhstan through a permanent establishment, - for a taxpayer, who conceded the right of claim;

7) the income from a concession of the right of claim for a debt to a resident or a nonresident, working in the Republic of Kazakhstan through a permanent establishment, - for a taxpayer, who purchases the right of claim;

8) a forfeit (fine, penalty) and others of sanctions, except for the unreasonably withheld earlier penalties, returned from the budget;

9) the income in the form of dividends, coming from a resident legal entity, as well as from mutual investment funds, created in accordance with the Laws of the Republic of Kazakhstan;

10) the income in the form of remunerations, except for the remunerations for the debt securities;

11) the income in the form of remunerations for the debt securities, received from an issuer;

12) the income in the form of royalties;

13) the income from leasing of property, located in the Republic of Kazakhstan;

14) the income, received from a real estate, located in the Republic of Kazakhstan;

15) the income in the form of insurance remunerations, paid for insurance contracts or re-insurance of risks which appear in the Republic of Kazakhstan;

16) the income from provision of services for international transportations.

For the purposes of this part, the international transportation is any transportation of passengers, baggage, goods, including mail by a marine vessel, river boat or aircraft, motor vehicle or rail transport between the places, located in different states, one of which is the Republic of Kazakhstan.

For the purposes of this paragraph, the following shall not be recognized as the international transportation:

transportation, performed solely between points, located outside the Republic of Kazakhstan, and solely between points, located in the territory of the Republic of Kazakhstan;

transportation of mineral resources through a pipeline;

16-1) the income in the form of payment for demurrage of a vessel under the loading and unloading operations in excess of the laytime, established in a contract (agreement) on maritime transport transportation;

17) the income, received from exploitation of pipelines, power lines, fiber optic lines of communication in the territory of the Republic of Kazakhstan;

18) the income of a nonresident individual from the activity in the Republic of Kazakhstan under a labor agreement (contract), which is concluded with a resident or nonresident who is an employer;

19) director's fee earnings, and (or) other payments to the members of a management body (board of directors or other body) received by the specified persons in connection with performance of their management responsibilities in relation to a resident, regardless of the actual place of performance of these responsibilities;

20) the bonuses of a nonresident individual which are paid to him/her in connection with residence in the Republic of Kazakhstan by a resident or a nonresident who is an employer;

21) the income of a nonresident legal entity from the activity in the Republic of Kazakhstan in the form of material gain, received from an employer.

For the purposes of this part, a material gain is also:

a payment and (or) reimbursement of the cost of goods, executed works, provided services, received by a nonresident individual from the third persons;

the negative disparity between the cost of goods, works, services realized to a nonresident legal entity and the cost of purchase or the prime cost of these goods, works, services;

writing-off of a debt or an obligation from a nonresident legal entity;

21-1) the income of a nonresident individual in the form of material gain, received from a person who is not an employer.

For the purposes of this part, a material gain is also:

a payment and (or) reimbursement of the cost of goods, executed works, provided services, received by a nonresident individual from the third persons;

the negative disparity between the cost of goods, works, services realized to a nonresident individual and the cost of purchase or the primary cost of these goods, works, services;

writing-off of the cost and obligation from a nonresident individual;

22) the pension payments made by accumulative pension funds-residents;

23) the income which is paid to the workers of culture and arts: actors (actresses) of theatre, film, television, musicians, artists, athletes - from the activity in the Republic of Kazakhstan, regardless of how and to whom the payments are made;

24) the winnings which are paid by a resident or a nonresident, who have a permanent establishment in the Republic of Kazakhstan, if the payment of a winning is made in connection with the activity of this permanent establishment;

25) the income which is received from provision of independent personal (professional) services in the Republic of Kazakhstan;

26) the income in the form of gratuitously received or inherited property, including works, services, except for the gratuitously received property by a nonresident individual from a resident individual.

The cost of gratuitously executed works, provided services shall be determined in the amount of expenses, incurred in connection with execution of these works, provision of the services.

The cost of gratuitously received property, except for the gratuitously executed works, provided services, shall be determined in the amount of its balance cost by the accounting data of a person who transferred this property at the date of the property transfer.

If it is impossible to determine the cost of a gratuitously received property from the accounting data and an inherited property, the cost of such property shall be determined as of the date of the transfer or entry into the inheritance via one of the following methods:

on the basis of the cost, established by a state body in the sphere of registration of the rights for real estate as of January 1 of a calendar year, during which this property was received;

on the basis of the rate of a security at Kazakhstan or a foreign Stock Exchange as of the date of receipt of the security (entry) in the inheritance.

If it is impossible to determine the cost of a gratuitously received property or an inherited property, established by this sub-paragraph, the cost shall be determined on the basis of a report on the property valuation;

27) the income from derivative financial instruments;

28) the income received under an act on establishment of a trust management of property from a resident trust manager, which is not entrusted with fulfillment of the tax obligation for a nonresident in the Republic of Kazakhstan, who is a founder of the trust management under the contract of the trust management of property or beneficiary in other cases of the trust management;

28-1) the income from an investment deposit, placed in an Islamic bank;

29) the other income which appears as a result of the activity in the Republic of Kazakhstan.

At that, the provision of sub-paragraphs 3), 4), 10) - 12), 21-1) and 24) of this Article shall be applied under the condition of distribution and (or) payment of the income:



by a resident;

by a nonresident, working in the Republic of Kazakhstan through a permanent establishment, if the payments are related to the activity or property of this permanent establishment;

by an affiliate, representative office of a nonresident in case, if the affiliate, representative office is not a permanent establishment in accordance with an international agreement on double taxation avoidance or paragraph 4 of Article 191 of this Code.

2. The income of a nonresident from the sources in the Republic of Kazakhstan is not:

1) the amount of the income tax which is calculated from the income of the nonresident in accordance with the provisions of this Code and which is paid to the budget of the Republic of Kazakhstan by a tax agent from its own funds without withholding it;

2) compensation of expenses to members of a management body (board of directors or other body), incurred in connection with fulfillment of the management responsibilities, entrusted to them by a resident, within:

the actually incurred expenses for travel to the place of managing responsibilities and back, including payment of costs for the reservation, on the base of the documents, confirming these expenses (including an electronic ticket if a document, confirming the fact of the payments of its cost is presented);

the actually incurred expenses for renting accommodation on the basis of the documents, confirming these expenses but not more than the marginal rates of reimbursement for rent of single standard rooms in hotels by public officials who are on working trips abroad;

the amounts of money no more than 6-fold of the monthly calculation index, established by the Law on the Republican Budget and operating on January 1 of the appropriate financial year, per day - for the period of staying in the Republic of Kazakhstan for fulfillment of the management responsibilities up to forty days;

the amounts of money no more than 8-fold of the monthly calculation index, established by the Law on the Republican Budget and operating on January 1 of the appropriate financial year, per year - for the period of staying outside the Republic of Kazakhstan for fulfillment of the management responsibilities up to forty days. At that, the place of fulfillment of the management responsibilities shall not coincide with the place of residence.

**Footnote. Article 192 as amended by the Law of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

## **Chapter 23. THE ORDER OF TAXATION OF INCOME OF NONRESIDENT LEGAL ENTITIES WHICH PERFORM THE ACTIVITY WITHOUT FORMING A PERMANENT ESTABLISHMENT IN THE REPUBLIC OF KAZAKHSTAN**

### **Article 193. The order of calculation and withholding of the corporate income tax at the source of payment**

1. The income of a nonresident legal entity, working without forming a permanent establishment, determined by Article 192 of this Code, shall be taxable by the corporate income tax at the source of payment without deductions.

At that, the amount of the corporate income tax, withheld at the source of payment, shall be calculated by a tax agent via applying of the rates, established by Article 194 of this Code to the amount of the income, taxable at the source of payment, specified in Article 192 of this Code.

Calculation and withholding of the corporate income tax on the income which is taxable at the source of payment shall be performed by a tax agent:

1) no later than the date of payment of the income to a nonresident legal entity - on the calculated and paid income;

2) no later than the deadline, established by paragraph 1 of Article 149 of this Code for submission of the declaration for the corporate income tax - on the calculated and paid income which was deducted.

1-1. For the purposes of this Article, the increase of the cost when undertaking the realization of the securities, share of participation, shall be determined in accordance with Article 87 of this Code.

2. The corporate income tax at the source of payment shall be withheld by a tax agent regardless of the form and the place of the payment of the income to a nonresident legal entity.

3. The obligation and responsibility to calculate, withhold and transfer the corporate income tax at the source of payment to the budget shall be entrusted to the following persons, who pay the income to a nonresident and who are recognized as the tax agents:

1) an individual entrepreneur;

2) a nonresident legal entity, working in the Republic of Kazakhstan through an affiliate, representative office, in case if the affiliate, representative office does not form a permanent establishment in accordance with an international agreement on avoidance of double taxation or with paragraph 4 of Article 191 of this Code;

3) a legal entity, including a nonresident, working in the Republic of Kazakhstan through a permanent establishment.

At that, a nonresident legal entity shall be recognized as a tax agent from the date of the registration of an affiliate, representative office or permanent establishment without opening an affiliate or a representative office in the tax bodies of the Republic of Kazakhstan;

4) a resident-issuer of the underlying asset of depository receipts;

5) a nonresident legal entity, except for those, specified in sub-paragraphs 2) and 3) of paragraph 3 of this Article, which purchases securities, participation shares when not fulfilling the conditions, established by sub-paragraph 7) of paragraph 5 of Article 193 of this Code.

3-1. The obligation of a tax agent to withhold and transfer the corporate income tax at the source of payment shall be recognized as fulfilled when the tax agent pays the corporate income tax, calculated from the income of a nonresident in accordance with the provisions of this Code from its own funds without withholding it.

4. The payment of income is a transfer of money in cash and (or) non-cash forms, securities, participation shares, goods, property, execution of works, provision of services, write-off and set-off of a debt, which is made for repayment of the debt owed to a nonresident on payment of the income from sources in the Republic of Kazakhstan

For the purposes of this part, the payment of income is the determination of income in accordance with paragraphs two - five of the first part and the second part of sub-paragraph 14) of paragraph 1 of Article 12 of this Code in taxation of dividends which appear in adjusting taxation objects in accordance with this Code and the legislation of the Republic of Kazakhstan on the Transfer Pricing. At that, the date of the income payment is the deadline, established by paragraph 1 of Article 149 of this Code for submission of the declaration for the corporate income tax.

4-1. If the contracts, concluded with nonresidents, have the regulations which provide execution, provision of various works, services in the Republic of Kazakhstan and outside the Republic, the order of calculation and withholding of the income tax at the source of income, established by this Article, shall be separately applied to each of the works, services. Each phase of execution of the works, provision of the services by a nonresident within the single industrial and technological cycle shall be considered as the separates of works, services for the purposes of calculation and withholding of the income tax at the source of payment from the nonresidents' income.

At that, the total amount of income of a nonresident under the foregoing contracts shall be reasonably distributed on income, received from execution of works, provision of services in the Republic of Kazakhstan and outside the Republic.

For the purposes of applying the provisions of this paragraph, a nonresident shall be obliged to submit to a recipient of the services the copies of the documents,

confirming the reasonableness of distribution of the total amount of the nonresident's income on the income, received from execution of works, provision of services in the Republic of Kazakhstan and on the income, received from execution of works, provision of services outside the Republic.

The total amount of income of a nonresident, received under the foregoing contracts from execution of works, provision of services in the Republic of Kazakhstan and outside the Republic shall be taxable when unreasonably distributing income of the nonresident led to reduction of the amount of income of the nonresident, taxable in the Republic of Kazakhstan in accordance with the provisions of this Article.

5. The following shall not be taxable:

1) the payments connected with the supply of goods to the Republic of Kazakhstan within the foreign trade activities, except for the provided services, executed works in the Republic of Kazakhstan connected with this supply;

2) the income from provision of services for opening and maintaining correspondent accounts of nonresident banks and calculations on them as well as payments through international credit cards;

3) the dividends, except for those, specified in sub-paragraph 4) of paragraph 1 of Article 192 of this Code, under simultaneous fulfillment of the following conditions:

a taxpayer shall possess shares or participation shares, on which the dividends paid, for more than three years at the date of distribution of the dividends;

a legal entity which pays the dividends shall not be a subsoil user during the period, for which the dividends are paid;

more than 50 percent of the cost of assets of a legal entity which pays the dividends at the date of payment of the dividends makes the property of persons (a person) who are (is) not subsoil users (user).

The provisions of this sub-paragraph shall only be applied to the dividends received from a resident legal entity in the form of:

the income which is payable on shares, including the shares which are the basic assets of depository receipts;

a part of net income, distributed by a legal entity among its founders, participants;

the income from distribution of property when liquidating a legal entity and when reducing the authorized capital by proportional reduction of the size of founders, participants or by full or partial repayment of shares of founders, participants, and when a founder, a participant withdraws a share of participation in the legal entity, except for the property, brought in by the founder, participant as a contribution to the authorized capital.

At that, a share of property of persons (a person), who are (is) subsoil users (user), in the cost of assets of a legal entity who pays dividends, shall be determined in accordance with Article 197 of this Code;

4) the income from shares of open mutual investment funds in their redemption by the management company of the fund;

5) the dividends and remunerations for securities which are on the official list of the Stock Exchange, operating in the Republic of Kazakhstan, at the date of distribution of these dividends and remunerations;

6) the remunerations for the government-issued securities, agency bonds and income from increase of the cost when realizing the government-issued securities, agency bonds;

7) the income from increase of the cost when realizing shares, issued by a legal entity, or shares of participation in the legal entity or the consortium, specified in sub-paragraph 5) of paragraph 1 of Article 192 of this Code, except for those, specified in sub-paragraph 4) of paragraph 1 of Article 192 of this Code, unless otherwise provided by sub-paragraph 8) of this paragraph, under simultaneous fulfillment of the following conditions:

a taxpayer shall possess these assets or participation shares for more than three years at the date of realization of the shares and participation shares;

a legal entity - issuer or a legal entity, a share of participation in which is realized, or a participant of a consortium who realizes a share of participation in this consortium is not a subsoil user;

more than 50 percent of the cost of assets of a legal entity - issuer or a legal entity, a share of participation in which is realized, or the total cost of assets of participants of a consortium, a share of participation in which is realized, at the date of this realization makes the property of persons (a person), who are (is) not subsoil users (user);

8) the income from increase of the cost when realizing via the method of open trading at the Stock Exchange operating in the Republic of Kazakhstan or a foreign stock exchange of the securities, which are at the date of the realization on the official list of this Stock Exchange.;

9) the remunerations for conventional bank deposits of a nonresident legal entity, specified in Article 216 of this Code;

10) the payments, connected with an adjustment of the cost for the quality of crude oil, transported by a single pipeline system outside the Republic of Kazakhstan;

11) the amounts of accumulated (distributed) remunerations for the debt securities paid in their purchase by resident customers;

12) the income from transfer of the basic assets to the financial leasing under the contracts of international financial leasing;

13) the income from execution of works, provision of services outside the Republic of Kazakhstan, except for the income, specified in sub-paragraphs 3), 4) of paragraph 1 of Article 192 of this Code;

**Note of the RCLI!**

Sub-paragraph 14) shall be enforced from 01.01.2009 and operate until 01.01.2016 (see Article 2 of the Law of the Republic of Kazakhstan dated 19.03.2010 No. 258-IV).

14) the payments which are made from a grant within an intergovernmental agreement, a participant of which is the Republic of Kazakhstan, aimed at support (assistance) of low-income citizens in the Republic of Kazakhstan;

15) the income from execution of works, provision of services:

to the autonomous education organizations, specified in sub-paragraphs 2) and 3) of paragraph 1 of Article 135-1 of this Code;

to the autonomous education organizations, specified in sub-paragraphs 4) and 5) of paragraph 1 of Article 135-1 of this Code for the activities, specified by sub-paragraphs 4) and 5) of paragraph 1 of Article 135-1 of this Code.

6. Taxation of income of a nonresident legal entity at the source of payment shall be performed regardless of how the nonresident uses the income in favor of the third persons and (or) the structural units in other states.

**Footnote.** Article 193 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 19.03.2010 No. 258-IV (shall be enforced from 01.01.2009 and operate until 01.01.2016); dated 19.01.2011 No. 395-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

**Article 194. The rates of the income tax at the source of income**

Income of a nonresident, working without forming a permanent establishment, from the sources in the Republic of Kazakhstan, shall be taxable at the source of payment at the following rates:

1) the income, determined by Article 192 of this Code, except for that, specified in sub-paragraphs 2) - 6) of this Article, - 20 percent;

2) the income, specified in sub-paragraph 4) of paragraph 1 of Article 192 of this Code, - 20 percent;

**Note of the RCLI!**

Operation of sub-paragraph 3) in the part of the amount of the rate of the income tax at the source of payment is suspended until 01.01.2012 by the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV and the rate operates during the suspension period.

3) the insurance premiums under the risks' insurance contracts - 15 percent;

4) the insurance premiums under the risks re-insurance contracts - 5 percent;

5) the income from provision of international transportation services - 5 percent;

6) the income from increase of the cost, dividends, remunerations, royalties - 15 percent.

Footnote. Article 194 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 26.11.2010 No. 356-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

**Article 195. The order and the deadlines for transfer of the corporate income tax at the source of income**

1. The corporate income tax at the source of income, withheld from the income of a nonresident legal entity shall be transferred by a tax agent to the budget:

1) on calculated and paid amounts of income, except for the case, specified in sub-paragraph 3) of this paragraph - no later than twenty five calendar days after the end of the month, in which the payment of the income was made, under the market exchange rate as of the date of the payment;

2) on the distributed but not paid amount of income when attributing them to deductions - no later than ten calendar days after the deadline, established for submission of the declaration for the corporate income tax under the market rate of exchange on the last day of the tax period, established by Article 148 of this Code in the declaration for the corporate income tax, for which the nonresident's income was deducted.

The provision of this sub-paragraph shall not be applied to the remunerations for the debt securities and the deposits, the deadlines for repayment of which come ten calendar days after the deadline, established for submission of the declaration for the corporate income tax. The provisions of sub-paragraph 1) of paragraph 1 of this Article shall be applied to this case;

3) in case of an advance payment - no later than twenty five calendar days after the end of the month, in which the income of a nonresidential legal entity was distributed within the amount of the advance, under the market rate of exchange on the date of its distribution.

2. If the amount of income of a nonresident was deducted in the declaration for the corporate income tax for the tax period, established by Article 148 of this Code, but at that, the payment of this income to a nonresident was made at the end of such period, the income tax at the source of payment shall be transferred by a tax agent to the budget within the deadlines, established by sub-paragraph 2) of paragraph 1 of this Article.

3. Transfer of the amounts of the income tax from the income of a nonresident legal entity at the source of payment to the budget shall be made by a tax agent at its location.

A nonresident legal entity, working in the Republic of Kazakhstan through a permanent establishment, shall transfer the amounts of the income tax at the source of

payment from the income of the nonresident at the location of the permanent establishment.

**Footnote. Article 195 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 196. Submission of the tax reporting**

A tax agent shall be obliged to submit a calculation of the corporate income tax withheld at the source of payment from the income of a nonresident to a tax body at its location within the following deadlines:

1) for the first, second and third quarters - no later than the 15th of the second month following the quarter, in which payment of the income of the nonresident was made;

2) for the fourth quarter - no later than the 31st of March of the year following the tax period, established by Article 148 of this Code, in which the payment of the nonresident's income was made and (or) for which the distributed but not paid income of the nonresident was deducted.

**Footnote. Article 196 in the wording of the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 197. Calculation, withholding and transfer of the income tax from increase of the cost when undertaking the realization of the property, located in the Republic of Kazakhstan, and shares, participation shares, related to subsoil use in the Republic of Kazakhstan**

**Footnote. The title in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).**

1. This Article shall be applied to the income of a nonresident from increase of the cost when undertaking the realization of:

1) the property, located in the Republic of Kazakhstan, the rights on which or transactions with which shall be subjected to the state registration in accordance with the legislative acts of the Republic of Kazakhstan;

2) the property, located in the Republic of Kazakhstan which is subjected to the state registration in accordance with the legislative acts of the Republic of Kazakhstan;

3) the shares, issued by a resident and a share of participation in the authorized capital of a resident legal entity which is a subsoil user or a consortium, a participant (participants) of which is (are) a subsoil user (subsoil users);

4) the shares, issued by a resident legal entity and the shares of participation in the authorized capital of a resident legal entity or a consortium in incompatibility with the conditions, established by sub-paragraph 7) of paragraph 5 of Article 193 or sub-paragraph 8) of paragraph 1 of Article 200-1 of this Code;



5) the shares, issued by a nonresident legal entity and shares of participation in the authorized capital of a resident legal entity or a consortium in incompatibility with the conditions, established by sub-paragraph 7) of paragraph 5 of Article 193 or sub-paragraph 8) of paragraph 1 of Article 200-1 of this Code;

At that, the increase of the cost shall be determined in the following order:

1) when undertaking the realization of the property, specified in sub-paragraphs 1) and 2) of this paragraph - as the positive disparity between the cost of realization of the property and the cost of its purchase;

2) when undertaking the realization of the shares and participation shares - in accordance with Article 87 of this Code.

1-1. For the purposes of this Article and Articles 133, 156, 193 and 200-1 of this Code, a share of property of a subsoil user (subsoil users) in the cost of assets of a legal entity on the date of realization of the shares (participation shares) or payment of dividends shall be determined as the ratio of the cost (value) of the property of the subsoil user (subsoil users), the shares (participation shares) of which are owned by the legal entity, which pays the dividends or the shares (participation shares), which are realized, to the total cost of the assets of the legal entity.

For the purposes of this Article and Articles 133, 156, 193 and 200-1 of this Code, a share of property of a subsoil user (subsoil users) in the total cost of assets of participants of a consortium on the date of realization of the shares of participation shall be determined as the ratio of the cost (value) of property of the subsoil user (subsoil users), shares (participation shares) of which are owned by the participants of the consortium, the shares of participation in which are realized, to the amount of the total cost of the assets of these participants.

The cost of property of a subsoil user of the Republic of Kazakhstan (depending on its organizational and legal form) is the balance cost:

of a share of participation in this subsoil user which is owned by a legal entity that pays dividends and the shares (participation shares) of which are realized;

of the shares, issued by this subsoil user of the Republic of Kazakhstan which are owned by a legal entity, the shares (participation shares) of which are realized.

The total cost of assets of a legal entity which pays dividends or the shares (participation shares) of which are realized is the amount of the balance costs of all assets of this legal entity.

The balance cost of assets shall be determined on the basis of the data of a separate financial reporting of a legal entity which pays dividends or the shares (participation shares) of which are realized, or participants of a consortium, the shares of participation in which are realized, composed and approved in accordance with the requirements of the legislation of the state where this consortium of legal entity was created:

on the date of payment of the dividends or transfer of the ownership right for the shares (participation shares) to a customer;

when there is no separate financial reporting at the date of payment of the dividends or transfer of the ownership right for the shares (participation shares) to a customer - at the last reporting date preceding the date of payment of the dividends and transfer of the ownership right for the shares (participation shares) to a customer.

2. The income of a nonresident, specified in paragraph 1 of this Article, except for the income, specified in sub-paragraph 8) of paragraph 5 of Article 193 of this Code, shall be taxable by the income tax at the source of payment at the rate, established by Article 194 of this Code.

2-1. The authorized state and local executive bodies which perform the state regulation within the competence in the sphere of subsoil use in accordance with the legislation of the Republic of Kazakhstan on subsoil and subsoil use, shall submit to an authorized body the information on purchase and sale of the securities, participation shares, specified in sub-paragraphs 3), 4) and 5) of paragraph 1 of this Article with reflection of:

1) an identification number and (or) its analogue in the state of residence and the name of a legal entity and (or) last name, name, patronymic (if there is one) of an individual, who realizes and purchases the specified shares (participation shares);

2) the costs of purchase of the specified shares (participation shares);

3) the dates of payment of the income on the transaction;

4) the information on the past performance of a purchaser, including the list of states where he/she performed his/her activity for the last three years preceding the year of the transaction;

5) the information about affiliation of a person, who realizes property with other persons (the amount of direct or indirect participation).

2-2. An authorized body shall be obliged within three working days from the date of receipt of the information from the authorized state and local executive bodies, performing the state regulation activity within the competence in the sphere of subsoil use in accordance with the legislation of the Republic of Kazakhstan on subsoil and subsoil use, to send them to the tax body at the place of a legal entity which has the right for subsoil use in the Republic of Kazakhstan, specified in sub-paragraphs 3), 4) and 5) of paragraph 1 of Article 197 of this Code with simultaneous notification of a directly subordinate vertical tax body.

3. A tax body, at the place of a legal entity which has the right for subsurface use in the Republic of Kazakhstan within five working days from the date of receipt of the information, specified in paragraph 2-1 of this Article, shall be obliged to send the information to this legal entity on a purchaser of shares (participation shares) and on the cost of these shares (participation shares).

4. A person who realizes shares, participation shares, and real estate shall be obliged to submit to a purchaser - a tax agent a copy of the document, confirming the cost of the purchase (deposit).

In case if the document, confirming the cost of purchase (deposit) is not submitted to a tax agent, the cost of realization shall be taxable by the income tax at the source of payment.

5. The obligation and responsibility to calculate, withhold and transfer the income tax at the source of payment to the budget shall be entrusted to a person who pays income, including a nonresident, regardless that the nonresident has or does not have a permanent establishment in the Republic of Kazakhstan. This person shall be recognized as a tax agent.

6. The nonresident who is a tax agent shall be subjected to registration as a taxpayer in a tax body in the order, established by Article 562 of this Code.

7. The income tax at the source of payment shall be withheld by a tax agent at the moment of payment of the income to a nonresident regardless of the form and the place of the income payment.

8. Transfer of the amount of the income tax shall be performed by a tax agent within the period, specified in Article 195 of this Code.

A tax reporting on the income tax, withheld at the source of payment from the income of nonresidents, shall be submitted by a tax agent to a tax body at the place of its registration in the Republic of Kazakhstan within the periods, established by Articles 196 and 203 of this Code.

9. The income tax can be paid from the funds of a tax agent by a resident legal entity which is a subsoil user. At that, the income tax shall be transferrable to the budget by this resident legal entity no later than twenty-five calendar days after the end of the month, in which the amount of the income tax was received from the tax agent. A tax reporting on the income tax, withheld at the source of payment from the income of a nonresident shall be submitted by this resident legal entity no later than the 15th of the second month following the quarter, in which the amount of the income tax was received from the tax agent, to a tax body at the location of the resident legal entity in the Republic of Kazakhstan.

The amount of the income tax, transferred by a tax agent to a resident legal entity which is the subsoil user, specified in sub-paragraphs 3), 4) and 5) of paragraph 1 of this Article, shall not be recognized as the income of this resident legal entity.

10. In case if a tax agent does not apply the provisions of paragraphs 8 and 9 of this Article, a resident legal entity who is a subsoil user shall have the right at its own expense to make personally payment of the income tax from the income, coming from

increase of the cost for a nonresident no later than twenty five calendar days after the end of the month, in which the information, specified in paragraph 3 of this Article was received.

The resident legal entity specified in sub-paragraphs 3), 4) and 5) of paragraph 1 of this Article shall be obliged to submit the tax reporting on the income tax, withheld at the source of payment from income of a nonresident to a tax body at its location no later than the 15th of the second month following the quarter, in which the information, specified in paragraph 3 of this Article was received, when paying the income tax in accordance with this paragraph.

At that, the amount of the tax, paid for a nonresident shall not be deductible when determining the taxable income of a legal entity which is a subsoil user.

11. In case that a tax agent, a resident legal entity, which is the subsoil user, specified in sub-paragraphs 3), 4) and 5) of paragraph 1 of this Article, the provisions of paragraphs 7, 8, 9 and 10 of this Article, fulfillment of this obligation shall be entrusted to the resident legal entity, which is the subsoil user, in the order, established by Articles 85 and 86 of this Code.

12. *Excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).*

**Footnote. Article 197 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2009); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

## **Chapter 24. THE ORDER OF TAXATION OF INCOME OF NONRESIDENT LEGAL ENTITIES WHICH PERFORM THE ACTIVITY IN THE REPUBLIC OF KAZAKHSTAN THROUGH A PERMANENT ESTABLISHMENT**

### **Article 198. Determination of the taxable income**

1. Unless otherwise provided by this Article and Article 200 of this Code, determination of the taxable income, calculation and payment of the corporate income tax from the income of a nonresident legal entity, coming from the activity in the Republic of Kazakhstan through a permanent establishment, shall be performed in accordance with the provisions of this Article and Articles 83 - 149 of this Code.

1-1. A nonresident legal entity, operating in the Republic of Kazakhstan through a permanent establishment, shall reduce the amount of the corporate income tax, calculated in accordance with Articles 139 and 199 of this Code, by 100 percent when determining the amount of the corporate income tax, payable to the budget in case, if the following income makes no less than 90 percent of the received income in the total annual income of this nonresident legal entity:

1) the income from execution of works, provision of services to the autonomous education institutions, specified in sub-paragraphs 2) and 3) of paragraph 1 of Article 135-1 of this Code;

2) the income from execution of works, provision of services to the autonomous education institutions, specified in sub-paragraphs 4) and 5) of paragraph 1 of Article 135-1 of this Code on the activities, determined by sub-paragraphs 4) and 5) of paragraph 1 of Article 135-1 of this Code.

2. The followings of income, which is connected with the activity of a permanent establishment and which is received (receivable) from the date of the beginning of the activity in the Republic of Kazakhstan, make the total annual income of a nonresident legal entity, coming from the activity in the Republic of Kazakhstan through a permanent establishment:

1) the income from the sources in the Republic of Kazakhstan, provided by paragraph 1 of Article 192 of this Code;

2) the income, specified in paragraph 1 of Article 85 of this Code which are not included in sub-paragraph 1) of this paragraph;

3) the income which is received by the permanent establishment of the nonresident legal entity from the sources outside the Republic of Kazakhstan, including those through employees or other employed personnel;

4) the income of a nonresident legal entity, including the income of its structural units in other states, received from the activity in the Republic of Kazakhstan which is identical or similar to the one, performed through the permanent establishment of this nonresident legal entity in the Republic of Kazakhstan.

3. In case, if a nonresident carries out the entrepreneurial activity in the Republic of Kazakhstan and outside the Republic within one or connected projects, performed together with its permanent establishment in the Republic of Kazakhstan, the income of this permanent establishment is the income, which it could receive, if it was an independent and separate legal entity, engaged in the same or identical activity with the same or similar conditions and which operated independently regardless of a nonresident legal entity, the permanent establishment of which it is.

For the purposes of application of this paragraph, the income of a permanent establishment shall be determined, taking into account the norms of the legislation of the Republic of Kazakhstan on Transfer Pricing.

4. If the goods, produced by a permanent establishment of a nonresident legal entity in the Republic of Kazakhstan, are realized by other structural unit of the nonresident legal entity, located outside the Republic of Kazakhstan, the income of this permanent establishment of the nonresident legal entity is the income, which it could

receive, if it was an independent and separate legal entity, engaged in the same or identical activity with the same or similar conditions and which operated independently regardless of a nonresident legal entity, the permanent establishment of which it is.

For the purposes of application of this paragraph, the income of a permanent establishment shall be determined, taking into account the norms of the legislation of the Republic of Kazakhstan on Transfer Pricing.

5. The expenses, connected with receiving income from the activity in the Republic of Kazakhstan through a permanent establishment, shall be deducted regardless of that they were incurred in the Republic of Kazakhstan or outside the republic, except for the expenses, subjected to deduction in accordance with this Code.

6. A nonresident legal entity shall not have the right to deduce the amounts of a permanent establishment, presented to the permanent establishment as:

1) the royalties, honorariums, duties and other payments for use or provision of the right to use property or intellectual property of this nonresident legal entity;

2) the income for services provided by the nonresident legal entity to its permanent establishment;

3) the remunerations for loans provided by this nonresident legal entity to its permanent establishment;

4) the expenses which are not related to receiving income from the activity of the nonresident legal entity through a permanent establishment in the Republic of Kazakhstan;

5) the documentarily unconfirmed expenses;

6) management and general administrative expenses of the nonresident legal entity, specified in paragraph 2 of Article 208 of this Code which are not incurred in the territory of the Republic of Kazakhstan.

**Footnote. Article 198 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 19.01.2011 No. 395-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).**

#### **Article 199. The order of the net income taxation**

1. The net income of a nonresident legal entity from the activity in the Republic of Kazakhstan through a permanent establishment shall be taxable by the corporate income tax on the net income at the rate of 15 percent.

The net income shall be determined in the following order:

the taxable income, reduced by the amount of the income and the expenses, provided by Article 133 of this Code, and by the amount of the losses, postponed in accordance with Article 137 of this Code,

minus

the amount of the corporate income tax, calculated via the product of the rate, established by paragraph 1 or paragraph 2 of Article 147 of this Code and the taxable income, reduced by the amount of the income and the expenses, provided by Article 133 of this Code, and by the amount of the losses, postponed in accordance with Article 137 of this Code.

1. The calculated amount of the corporate income tax on the net income shall be reflected in the declaration for the corporate income tax.

2. A nonresident legal entity shall be obliged to pay the corporate income tax on the net income from the activity through a permanent establishment within ten calendar days after the deadline, established for submission of the declaration for the corporate income tax.

**Footnote. Article 199 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 200. The order of taxation of income in certain cases**

1. In case if a nonresident legal entity in the territory of the Republic of Kazakhstan has more than one permanent establishment, the nonresident shall have the right to pay the corporate income tax in an aggregate for a group of the permanent establishments of this nonresident legal entity through one of its permanent establishments.

At that, the nonresident legal entity shall be obliged no later than the 31st of December of the year preceding the reporting tax period to notify in writing:

1) an authorized body about which of the permanent establishments will perform calculation and payment of the corporate income tax;

2) the tax bodies at the location of the permanent establishments - that the chosen permanent establishment will pay the tax to the budget for all its permanent establishments.

In this case, the amount of the corporate income tax payable to the budget shall be calculated from an aggregate of the taxable income of the permanent establishments of a nonresident legal entity, located in the Republic of Kazakhstan.

At that, the chosen permanent establishment at the location shall be obliged to submit the general declaration of the corporate income tax for a whole group of these permanent establishments of the nonresident legal entity.

2. A tax agent who pays the income, specified in sub-paragraph 2) of paragraph 1 of Article 192, sub-paragraph 4) of paragraph 2 and paragraph 3 of Article 198 of this Code, shall calculate, withhold and transfer the corporate income tax from the specified income without deductions at the rate, established by sub-paragraph 1) of Article 194 of this Code under the following conditions:

1) the absence of a contract, concluded with an affiliate, representation office of a nonresident legal entity, nonresident legal entity operating in the Republic of

Kazakhstan through a permanent establishment without opening an affiliate, representative office;

2) the absence of an invoice on the realized goods, works, services, written out by an affiliate, representative office, permanent establishment of a nonresident legal entity without opening an affiliate, representative office.

The corporate income tax at the source of payment, withheld by a tax agent from the income of a nonresident legal entity shall be set off for repayment of the tax obligations of a permanent establishment of this nonresident legal entity.

At that, the nonresident legal entity, operating in the Republic of Kazakhstan through a permanent establishment, shall calculate the corporate income tax in a retrospective manner, in accordance with Articles 198 and 199 of this Code, starting with the date of formation of the permanent establishment and shall submit the declaration for the corporate income tax to a tax body at the location of the permanent establishment with the inclusion of the specified income.

The amount of the corporate income tax, calculated by a nonresident legal entity operating in the Republic of Kazakhstan through a permanent establishment, shall be reduced by the amount of the corporate income tax, withheld at the source of payment from the income of this nonresident legal entity in accordance with this paragraph. The reduction shall be performed if the documents, confirming withholding the tax by a tax agent are presented.

The positive disparity between the amount of the corporate income tax, withheld at the source of payment from the income of a nonresident legal entity in accordance with this paragraph and the amount of the corporate income tax, calculated by the nonresident legal entity working in the Republic of Kazakhstan through a permanent establishment, shall be postponed for the next ten tax periods inclusively and shall consequently reduce the amounts of the corporate income tax of these tax periods which are payable to the budget.

3. The income of a nonresident legal entity, which is not registered in the tax bodies as a taxpayer in violation of article 562 of this Code, received from the activity in the Republic of Kazakhstan through a permanent establishment, shall be taxable by the corporate income tax at the source of payment without deductions at the rate, established by sub-paragraph 1) of Article 194 of this Code.

A nonresident legal entity, operating through a permanent establishment, is registered in the tax bodies as a taxpayer with violation of the deadlines, established by Article 562 of this Code, shall be obliged to reflect the taxation objects and the objects, related to taxation, which appeared for the period from the date of formation of the permanent establishment to the date of its registration in a tax body, in the primary declarations for the appropriates of taxes, to calculate and to pay taxes, except for the tax obligations of a tax agent.



At that, the amount of the corporate income tax, calculated by this nonresident legal entity for the period from the date of formation of the permanent establishment to the date of its registration in a tax body, shall be reduced by the amount of the corporate income tax, withheld at the source of payment in accordance with this paragraph from the income of this nonresident legal entity for the specified period.

The reduction shall be performed if the documents, confirming withholding of the tax by a tax agent are provided.

**Footnote.** Article 200 is in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

## **Chapter 25. THE ORDER OF TAXATION OF INCOME OF NONRESIDENT INDIVIDUALS**

### **Article 200-1. Income of a nonresident individual which is not taxable**

1. The following income of a nonresident individual shall not be taxable:

1) The remunerations, paid by the nonresident individuals for their contributions in banks and organizations, performing certain of banking operations on the basis of the license of the national Bank of the Republic of Kazakhstan;

2) The payments, connected with supply of goods to the territory of the Republic of Kazakhstan within the foreign trade activities, except for the services, provided in the territory of the Republic of Kazakhstan, connected with a contract on these foreign trade activities;

3) the amounts of accumulated (distributed) remunerations for the debt securities in their purchase, paid by the resident customers;

4) the dividends, except for those, specified in sub-paragraph 4) of paragraph 1 of Article 192 of this Code under simultaneous fulfillment of the following conditions:

a taxpayer shall possess the shares and participation shares, on which the dividends are paid, for more than three years on the date of distribution of the dividends;

a legal entity which pays the dividends shall not be a subsoil user during the period, for which the dividends are paid;

more than 50 percent of the cost of assets of a legal entity, which pays the dividends on the date of payment of the dividends, makes the property of the persons (a person), who are (is) not subsoil users (a subsoil user).

The provisions of this paragraph shall be applied to the dividends only, received from a resident legal entity in the form of:

The income, payable for the shares, including the shares which are the basic assets of depository receipts;

a part of the net income, distributed by a legal entity among its founders, participants;

the income, coming from distribution of property when liquidating a legal entity or when reducing the authorized capital by the proportional reduction of the amounts of the shares of founders, participants or by full or partial repayment of the shares of founders, participants, and when a founder, participant withdraws a share of participation in the legal entity, except for the property, transferred by the founder, participant in the authorized capital in the form of contribution.

At that, a share of the property of the persons (a person), who are (is) subsoil users (a subsoil user), in the cost of the assets of the legal entity, which pays the dividends, shall be determined in accordance with Article 197 of this Code;

5) the income, coming from shares of open mutual investment funds in their redemption by the management company of this fund;

6) the dividends and remunerations for the securities, which are on the official list of the Stock Exchange, operating in the Republic of Kazakhstan, on the date of distribution of these dividends and remunerations;

7) the remunerations for the government-issued securities, agency bonds and income from increase of the cost when undertaking the realization of the government-issued securities, agency bonds;

8) the income from increase of the cost in realizing the shares, issued by a legal entity, or the shares of participation in a legal entity or a consortium, specified in sub-paragraph 5) of paragraph 1 of Article 192 of this Code, except for those, specified in sub-paragraph 4) of Article 192 of this Code, unless otherwise provided by sub-paragraph 9) of this paragraph, under simultaneous fulfillment of the following conditions:

a taxpayer shall possess these shares or participation shares for more than three years on the date of realization of the shares or participation shares;

a legal entity - issuer or a legal entity, a share of participation in which is realized, or a participant of a consortium which realizes a share of participation in this consortium which is not a subsoil user;

more than 50 percent of the cost of the assets of the legal entity - issuer or the legal entity, a share of participation in which is realized, or the total cost of the assets of participants of the consortium, a share of participation in which is realized, on the date of this realization makes property of the persons (a person), who are (is) not subsoil users (a subsoil user);

9) the income from increase of the cost when realizing the securities using the open trading method, which are on the date of this realization on the official list of the Stock Exchange, operating in the Republic of Kazakhstan, or a foreign stock exchange;

10) the income, coming from execution of works, provision of services outside the Republic of Kazakhstan, except for the income, specified in sub-paragraphs 3) and 4) of paragraph 1 of Article 192 of this Code;

11) the income from an investment deposit, placed in an Islamic bank;

12) the payments which are made from a grant within an intergovernmental agreement, a participant of which is the Republic of Kazakhstan, aimed at support (assistance) of low-income citizens in the Republic of Kazakhstan;

13) a material gain in the form of the following expenses, actually produced by the autonomous education institution, specified on paragraph 1 of Article 165-1 of this Code in respect of a nonresident individual who is an employee of this institution or who performs the activity in the Republic of Kazakhstan on executions of works, provision of services to this organization for:

accommodation;

medical insurance;

air travel from the place of residence outside the Republic of Kazakhstan to the place of work in the Republic of Kazakhstan and back.

**Footnote. The Chapter 25 is supplemented with Article 200-1 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 201. The order of calculation, withholding and transfer of the individual income tax at the source of payment**

1. Income of a nonresident individual, determined by paragraph 1 of Article 192 of this Code, shall be taxable by the individual income tax at the source of income at the rates, specified in Article 194 of this Code without tax deductions, unless otherwise provided by this Article.

Calculation and withholding of the individual income tax on the income which is taxable at the source of payment, shall be performed by a tax agent no later than the date of payment of the income of a nonresident individual.

The amount of income, taxable at the source of payment, shall be converted into tenge using the market exchange rate on the date of payment of the income when paying the income in a foreign currency.

Transfer of the individual income tax from the income of a nonresident individual to the budget shall be performed by a tax agent at the place of its location before the 25th of the month, following the month, in which the tax is withheld in accordance with this paragraph.

1-1. For the purposes of this Article, the increase of the cost when undertaking the realization of the securities, participation shares shall be determined in accordance with Article 87 of this Code.

2. Calculation, withholding and transfer of the individual income tax at the source of payment to the budget from the income of a nonresident individual, specified in paragraph 1 of Article 197 of this Code, except for the income, specified in sub-paragraphs 9), 10) of paragraph 1 of Article 200-1 of this Code, shall be performed in accordance with Article 197 of this Code despite of the provisions of this Article.

3. Calculation of the individual income tax, withheld at the source of payment shall be performed by a tax agent via applying of the rate, specified by paragraph 1 of Article 158 of this Code to the amount of the income taxable at the source of payment, determined by sub-paragraphs 18), 19), 20), 21) and 22) of paragraph 1 of Article 192 of this Code, including the income, determined by paragraph 2 of Article 163 of this Code, taking into account the provision of paragraph 3 of Article 155 of this Code, without tax deductions.

The individual income tax at the source of payment shall be withheld by a tax agent no later than the date of payment of the income to a nonresident individual, except for the case, specified in paragraph 5 of this Article.

A tax agent shall be obliged to transfer the amounts of the individual income tax, withheld at the source of payment within the deadlines, established by Article 161 of this Code.

4. The individual income tax at the source of payment shall be withheld by a tax agent regardless of the form and the place of payment of the income to the nonresident individual.

5. When the foreign personnel is provided by a nonresident, the activity of which does not form a permanent establishment in the Republic of Kazakhstan in accordance with paragraph 7 of Article 191 of this Code, the income of this foreign personnel, coming from the activity in the Republic of Kazakhstan, shall be taxable by the individual income tax at the source of payment..

At that, an object of taxation by the individual income tax is the income of the nonresident individuals, including other material gains, received by this personnel in connection with the activity in the Republic of Kazakhstan.

In case if the income is paid to a personnel provided by a nonresident, the tax base shall be determined by a tax agent on the basis of the documents, submitted by the nonresident in accordance with paragraph 7 of Article 191 of this Code, for the purposes of calculation of the individual income tax.

Withholding of the individual income tax at the source of payment from the income of foreign personnel shall be performed by a tax agent when paying the income to a nonresident legal entity for provision of the foreign personnel.

Calculation of the individual income tax withheld at the source of payment shall be performed by a tax agent by applying the rate, specified by paragraph 1 of Article 158 of this Code to the amount of the income of the foreign personnel, determined in

accordance with this paragraph, taking into account the provisions of paragraph 3 of Article 155 of this Code without tax deductions.

A tax agent shall be obliged to transfer the amount of the individual income tax, withheld at the source of payment within the deadlines, defined by Article 161 of this Code.

6. The obligation and responsibility to calculate, withhold and transfer the individual income tax at the source of payment to the budget shall be entrusted to the following persons, who pay income to a nonresident and who are recognized as the tax agents:

- 1) an individual entrepreneur;
- 2) a nonresident legal entity operating in the Republic of Kazakhstan through an affiliate, representative office, in case if the affiliate, representative office does not form a permanent establishment in accordance with an international agreement on double taxation avoidance or paragraph 4 of Article 191 of this Code;
- 3) a legal entity, including a nonresident operating in the Republic of Kazakhstan through a permanent establishment.

At that, the nonresident legal entity shall be recognized as a tax agent from the date of registration of an affiliate, representative office or a permanent establishment in the tax bodies in the Republic of Kazakhstan.

For the purposes of this Chapter, a resident legal entity shall have the right by its decision to recognize its structural unit on the income, which is taxable at the source of payment and which are paid (payable) by this structural unit in the order, provided by Article 161 of this Code, as a tax agent on the individual income tax, withheld at the source of payment;

4) a legal entity, including a nonresident, operating in the Republic of Kazakhstan through a permanent establishment, to which a foreign personnel was provided by the nonresident, the activity of which does not form a permanent establishment in accordance with the provisions of paragraph 7 of Article 191 of this Code;

5) a resident - issuer of the underlying asset of depository receipts;

6) a nonresident legal entity, except for those, specified in sub-paragraphs 2), 3) and 4) of paragraph 6 of this Article, which purchases securities, participation shares, in case of non-fulfillment of the conditions, established by sub-paragraph 8) of paragraph 1 of Article 200-1 of this Code.

*7. Excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).*

*8. Excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).*

9. The obligation of a tax agent to withhold and transfer the individual income tax at the source of payment shall be recognized as fulfilled when the tax agent pays the

amount of the individual income tax, calculated from the income of a nonresident in accordance with the provisions of this Code from its own funds without withholding it.

Footnote. Article 201 as amended by the Laws of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 19.03.2010 No. 258-IV (shall be enforced from 01.01.2009 and operate until 01.01.2016); dated 19.01.2011 No. 395-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

**Article 202. The order of taxation of income of foreign employees of a nonresident legal entity which does not have a permanent establishment in the Republic of Kazakhstan**

1. The provisions of this Article shall be applied to taxation of the income of the foreigners and stateless persons, who are the employees of a nonresident legal entity, which does not have a permanent establishment in the Republic of Kazakhstan, determined by sub-paragraphs 18), 20), 21) of paragraph 1 of Article 192 of this Code, including the income, determined by Article 163 of this Code, unless otherwise provided by paragraph 5 of Article 201 of this Code. At that, the provision of this Article shall be applied under simultaneous fulfillment of the following conditions:

1) a foreigner or a stateless person is an employee of the nonresident legal entity which does not have a permanent establishment in the Republic of Kazakhstan;

2) a foreigner or a stateless person shall be recognized as a permanently staying in the Republic of Kazakhstan for the current tax period in accordance with paragraph 2 of Article 189 of this Code.

In case if a foreigner or a stateless person is not recognized as a permanently staying in the Republic of Kazakhstan for the current tax period, the income of this person, specified in sub-paragraphs 18), 20), 21) of paragraph 1 of Article 192 of this Code, including the expenses, specified in Article 163 of this Code, shall not be taxable

2. The obligation and responsibility to calculate, withhold and transfer the individual income tax at the source of payment to the budget from the income of the foreigner or the stateless person, specified in paragraph 1 of this Article, shall be entrusted to a legal entity (including a nonresident working through a permanent establishment), in favor of which the nonresident legal entity executed works, provided services. This legal entity shall be recognized as a tax agent.

3. Calculation of the individual income tax shall be performed from the income of a foreigner or a stateless person, specified in a labor agreement (contract), concluded between the foreigner or the stateless person and a nonresident legal entity without tax deductions at the rate, established by Article 158 of this Code. At that, the nonresident legal entity shall be obliged to submit to a tax agent the notarized copies of the

individual employment agreements (contracts), concluded with the foreigners or the stateless persons, who were sent on a working trip to the Republic of Kazakhstan.

4. The individual income tax at the source of payment shall be calculated and withheld by a tax agent no later than the date of payment of the income to a nonresident legal entity regardless of the form or the place of the income payment.

5. Transfer of the individual income tax from the income of a foreigner or a stateless person to the budget shall be performed by a tax agent at its location before the 25th of the month, following the month, in which the tax is subjected to withholding in accordance with paragraph 4 of this Article.

**Footnote. Article 202 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

**Article 203. Submission of a declaration for the individual income tax and the social tax on the foreigners and stateless persons**

**Footnote. The title as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

The declaration for the individual income tax and the social tax on the foreigners and stateless persons shall be submitted by a tax agent to a tax body at the place of payment of the tax quarterly no later than the 15th of the second month, following the quarter, in which the reporting tax periods are included.

**Footnote. Article 203 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

**Article 204. The order of taxation of income of a nonresident individual in certain cases**

1. The provisions of this Article shall be applied to the income of a nonresident individual, received from the sources in the Republic of Kazakhstan from the persons who are not the tax agents in accordance with the provisions of this Code.

2. Calculation of the individual income tax from the income of a nonresident individual, specified in paragraph 1 of this Article, shall be performed by applying the rate, established by Article 194 of this Code, to the calculated amount of the income without tax deductions.

3. Payment of the individual income tax shall be personally performed by a nonresident individual no later than ten calendar days from the deadline, established for submission of the declaration for the individual income tax for a tax period.

4. *Excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).*



Footnote. Article 204 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

#### **Article 205. Submission of a declaration for the individual income tax**

Unless otherwise provided by this Article, a declaration for the individual income tax shall be submitted to a tax body at the place of a taxpayer's staying (residence) no later than the 31st of March of the year, following the reporting tax period by a nonresident individual, who receives income from the sources in the Republic of Kazakhstan, which is not taxable by the individual income tax at the source of payment in accordance with this Code.

In case of departure outside the Republic of Kazakhstan during the current tax period without further entry into the territory of the Republic of Kazakhstan before the 31st of March of the year, following the current tax period, a nonresident individual shall have the right to submit the declaration for the individual income tax and to pay the individual income tax during the current tax period. At that, the declaration for the individual income tax shall be submitted for the period from the beginning of a tax period to the date of the departure of this person outside the Republic of Kazakhstan.

Footnote. Article 205 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

### **Chapter 26. THE SPECIAL REGULATION ON INTERNATIONAL AGREEMENTS**

#### **Article 206. Conditions of appliance of an international agreement**

1. The regulations of an international agreement on avoidance of double taxation and prevention of evasion of income (capital) and property taxation, one party of which is the Republic of Kazakhstan (for the purposes of this Article and Article 27 of this Code, hereinafter - the international agreement), shall be applied to the persons, who are residents of one or both states, which concluded this agreement.

2. The regulations of paragraph 1 of this Article shall not be applied to a resident of the state, with which an international agreement was concluded, if this resident uses the regulations of the international agreement in the interests of another person, who is not a resident of the state with which the international agreement was concluded.

#### **Article 207. The order of application of the international agreements**

Application of the regulations of the international agreements shall be performed in the order, established by this Code and in accordance with an international agreement.



**Article 208. Methods of deduction of management and general administrative expenses of a nonresident legal entity for the purposes of taxation of the income, coming from the sources in the republic of Kazakhstan**

1. In case, if the regulations of an international agreement, when determining the taxable income of a nonresident legal entity from the activity in the Republic of Kazakhstan through a permanent establishment, allow deduction of management and general administrative expenses actually incurred in the Republic of Kazakhstan and outside the Republic for the purposes to receive this income, the amount of these expenses shall be determined by one of the following methods:

- 1) the method of proportional distribution of expenses;
- 2) the method of immediate (direct) deduction of expenses.

At that, deduction of the specified expenses is allowed when a nonresident legal entity has the document, confirming the residency, corresponding with the requirements of paragraph 4 of Article 219 of this Code.

2. Management and general administrative expenses - are the expenses related to the management of an organization, salaries of the management personnel, not related to the production process.

3. A nonresident legal entity shall apply only one of the specified methods of deduction of management and general administrative expenses by its choice. The applied method must not be changed during the reporting tax period.

4. The chosen method of deductions of management and general administrative expenses to a permanent establishment (including the order of calculation of the calculated index which is used in the method of proportional distribution of expenses) shall be annually applied and can be changed only by agreement with a tax body, which is a superior towards a tax body at the location of the permanent establishment (except for an authorized body), before the beginning of the reporting tax period.

5. A nonresident legal entity does not have the right to simultaneously apply two methods of deduction of management and general administrative expenses within the reporting tax period.

6. The appropriate attachment to the declaration for the corporate income tax, submitted by a nonresident to a tax body at the location of a permanent establishment, shall be filled in order to calculate the specified expenses which are attributed to deduction.

7. Management or general administrative expenses shall be deducted by a permanent establishment in the Republic of Kazakhstan only when it has the following confirming documents and their translations into Kazakh or Russian languages:

- 1) a notarized copy of a document, confirming the residency, meeting the requirements of paragraphs 4 and 5 of Article 219 of this Code;

2) a copy of the financial reporting of the permanent establishment of a taxpayer in the Republic of Kazakhstan;

3) a copy of the financial reporting of a nonresident legal entity, composed in accordance with the requirements of the legislation of a state, in which this legal entity was created and (or) a resident of which it is;

4) a copy of an audit report on the audit of the financial reporting of a nonresident legal entity (when performing the audit of the financial reporting of this legal entity).

At that, the financial reporting, specified in sub-paragraphs 2) and 3) of this paragraph, shall reveal the following data depending on the method of determining the calculated index:

1) the total aggregate annual income in general;

2) the total labor costs of personnel in general;

3) the primary (current) and the balance cost of the fixed assets in general;

4) *excluded by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).*

8. The enumeration of management and general administrative expenses of a nonresident legal entity which are deductible by a permanent establishment in the Republic of Kazakhstan and the method of their distribution between the nonresident legal entity and its permanent establishment (establishments) shall be approved in the tax accounting policy of the nonresident legal entity.

9. A nonresident legal entity shall be obliged to submit a notarized copy of the document, confirming the residency, to a tax body within the deadlines, established for submission of the declaration for the corporate income tax. The free-form composed calculation of the amount of expenses, attributable to deductions by the permanent establishment in the Republic of Kazakhstan is submitted, when the method of proportional distribution is applied.

The documents, specified in paragraph 7 of this Article, except for the one specified in sub-paragraph 1) of the first part of paragraph 7 of this Article, shall be submitted by a nonresident to a tax body at its request.

10. In case, if the financial reporting is composed in a foreign language, a taxpayer shall be obliged to attach to it its translation into Kazakh or Russian languages, notarized in the order, established by the legislation of the Republic of Kazakhstan.

11. In case that the financial reporting does not reflect the amount of the management and general administrative expenses, which are subjected to distribution and in case of non-fulfillment of the conditions, established by this Article, these expenses shall not be accepted to deduction by a permanent establishment.

**Footnote. Article 208 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

## **Article 209. The method of proportional distribution of expenses**

1. When the method of proportional distribution is used, the amount of the management and general administrative expenses, specified in paragraph 2 of Article 208 of this Code, which are attributable to deductions by a permanent establishment, shall be determined as the product of the amount of these expenses and the calculation index.

2. The calculation index shall be calculated by using one of the following methods chosen by a nonresident legal entity:

1) the ratio of the amount of the total annual income, received by a nonresident legal entity from the activity in the Republic of Kazakhstan through a permanent establishment for the reporting tax period to the total amount of the total annual income of the nonresident legal entity in general for the specified tax period;

2) determination of the average quantity (AQ) by three indexes:

the ratio of the amount of the total annual income, received by a nonresident legal entity from the activity in the Republic of Kazakhstan through a permanent establishment for the reporting tax period to the amount of the total annual income of the nonresident legal entity in general for the specified tax period (I);

the ratio of the primary (current) cost of underlying means, accounted in the financial reporting of a permanent establishment in the Republic of Kazakhstan as of the end of the reporting tax period to the total primary (current) cost of the underlying means of a nonresident legal entity in general for the same tax period (UM);

the ratio of the amount of expenses for labor costs of personnel, working in a permanent establishment in the Republic of Kazakhstan as of the end of the reporting tax period to the total amount of expenses for the labor costs of the personnel of a nonresident legal entity in general for the same tax period (LC).

The average quantity shall be determined by the formula:

$$AQ = \frac{I + UM + LC}{3} .$$

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## **Article 210. Specifics of calculation of the calculation index when using the method of proportional distribution of expenses in certain cases**

1. In case of discrepancy of duration of tax periods in the Republic of Kazakhstan and in the state of residency of a taxpayer or discrepancy of the dates of the beginning and the end of tax periods in the Republic of Kazakhstan and in the state of residency of the taxpayer in an equal duration of the specified tax periods, the taxpayer shall be obliged to adjust the data of the financial reporting of a nonresident legal entity in the state of residency, used in calculating the amount of the management and general administrative expenses, subjected to deductions to a permanent establishment.

The adjustment factor (F) which is a tax period of a taxpayer in the state of residency with the tax period in the Republic of Kazakhstan shall be applied for adjusting the date of a financial reporting of the taxpayer in the state of residency.

2. The factor (F) shall be determined as the ratio of the number of months of a tax period of a taxpayer in the state of residency which are included in the scope of the tax period in the Republic of Kazakhstan to the number of months of the tax period of the taxpayer in the state of residency.

In case if two tax periods of a taxpayer in the state of residency are fully or partially included in the scope of a tax period in the Republic of Kazakhstan, the two factors (F1, F2) shall be applied.

3. The data of the financial reporting of a taxpayer in the state of residency shall be adjusted as follows:

$$F1 \cdot FR(SR)1 + K2 \cdot FR(SR)2,$$

$$\text{where } F1 = TP(SR)1 / TP(SR)3; F2 = TP(SR)2 / TP(SR)3,$$

at that:

TP(SR)1 - is the number of months of one tax period of a taxpayer in the state of residency which are included in the scope of a tax period in the Republic of Kazakhstan;

TP(SR)2 - is the number of months of other tax period of a taxpayer in the state of residency, which are included in the scope of a tax period in the Republic of Kazakhstan;

TP(SR)3 - is the total number of months of a tax period of a taxpayer in the state of residency;

FR(SR)1 - is the financial reporting of a taxpayer in the state of residency for one tax period of the taxpayer in the state of residency which are included in the scope of a tax period in the Republic of Kazakhstan;

FR(SR)2 - is the financial reporting of a taxpayer in the state of residency for another tax period of the taxpayer in the state of residency which are included in the scope of a tax period in the Republic of Kazakhstan.

## **Article 211. The method of immediate (direct) deductions of expenses**

1. The method of immediate (direct) deductions of the management or general administrative expenses of a nonresident shall be used in case if a nonresident legal entity introduces the separate accounting of the income and expenses (including management or general administrative expenses) of the head office and its permanent establishments, located in the Republic of Kazakhstan and outside the Republic.

2. The management or general administrative expenses shall be deducted by a permanent establishment in the Republic of Kazakhstan, if they are determinable and

immediately incurred for the purposes of receiving income from the activity in the Republic of Kazakhstan through a permanent establishment.

3. The specified expenses shall be deducted by a permanent establishment only if the confirming documents and their translation into Kazakh or Russian languages are provided.

4. The confirming documents are:

1) the primary accounting documents which confirm expenses, incurred by a nonresident legal entity in the territory of the Republic of Kazakhstan for the purposes of receiving income from the activity through a permanent establishment;

2) the copies of the primary accounting documents which confirm expenses, incurred by a nonresident legal entity outside the Republic of Kazakhstan for the purposes of receiving income from the activity in the Republic of Kazakhstan through a permanent establishment;

3) the notarized copy of the document which confirms the residency and which corresponds with the requirements of the paragraphs 4 and 5 of the Article 219 of this Code;

4) the tax registers on accounting expenses, which are incurred by a nonresident legal entity outside the Republic of Kazakhstan, composed on the basis of the primary accounting documents, confirming these expenses.

The form of a register on accounting expenses, incurred by a nonresident legal entity outside the Republic of Kazakhstan, the order of its completion shall be approved in the tax accounting policy of a nonresident legal entity.

**Footnote. Article 211 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

**Article 212. The order of application of an international agreement regarding full exemption from taxation of income of a nonresident, received from the sources in the Republic of Kazakhstan**

1. A tax agent shall have the right to independently apply exemption from taxation when paying an income to a nonresident or when deducting the distributed but not paid income of a nonresident, if this nonresident is a resident of the state, with which an international agreement is concluded.

2. The order of application of the regulations of an international agreement, established by this Article, shall be applied to taxation of the income of a nonresident, provided by Article 192 of this Code, except for the income, towards which the order of application of the regulations of an international agreement is established by Article 212-1, 212-2, 213, 214 and 215 of this Code, and the income, determined by Article 197 of this Code.

3. An international agreement shall be applied if a nonresident submits to a tax agent the document, which confirms the residency and which corresponds with the requirements of paragraphs 4 and 5 of Article 219 of this Code.

At that, the document, which confirms the residency, shall be submitted by the nonresident to a tax agent no later than one of the following dates, which comes first, except for the case, specified in paragraph 2 of this Article:

1) the 31st of December of the calendar year, in which payment of the income was made to the nonresident or the unpaid income of a nonresident was deducted;

2) the beginning of a scheduled tax audit of the quarter, in which the income of the nonresident was paid and which ends in the calendar year, in which this tax audit took place on tax obligation for the income tax, withheld at the source of payment;

3) no later than five working days before completion of a unplanned tax audit of the quarter, in which the income of the nonresident was paid and which ends in the calendar year, in which this tax audit took place on the tax obligation for the income tax, withheld at the source of payment. The date of completion of the unplanned tax audit shall be determined in accordance with an instruction.

4. In case, if a nonresident provides services or executes works in the territory of the Republic of Kazakhstan within the period, which does not lead to formation of a permanent establishment in the Republic of Kazakhstan, for the purposes of application of the regulation of an international agreement, a nonresident legal entity shall submit to a tax agent the notarized copies of the founding documents or extracts from the trade register (register of shareholders or another similar document, provided, by the legislation of the state, in which the nonresident was registered), indicating founders (participants) and majority of the shareholders of the nonresident legal entity along with the document, specified in sub-paragraph 3 of this Article.

The tax agent shall determine the fact of formation of a permanent establishment by a nonresident as a result of provision of services or execution of works within an agreement (contract) and the related projects if there are any on the basis of the submitted documents and the agreement (contract) on provision of services or execution of works.

A tax agent shall not have the right to apply the regulations of an international agreement regarding exemption of income of nonresidents in the Republic of Kazakhstan when revealing the fact of formation of a permanent establishment in the Republic of Kazakhstan by a nonresident.

5. In case, if provision of services and execution of works in the territory of the Republic of Kazakhstan within the period, which does not lead to formation of a permanent establishment, is performed within a contract on joint activity, a nonresident legal entity, which is a participant of the contract, shall submit a notarized copy of the contract on joint activity or other documents, confirming its share of participation in

the joint activity along with the document, specified in paragraphs 3 and 4 of this Article to a tax agent for the purposes of application of the regulations of the international agreement.

In case, if a nonresident does not form a permanent establishment as a result of provision of services and execution of works within this agreement (contract) and the related projects, a tax agent shall have the right to apply the regulations of the international agreement to the income of the nonresident legal entity in proportion to the share of participation in the joint activity, specified in the contract on joint activity or other documents, confirming its share of participation in the joint activity.

6. A tax agent shall be obliged to specify in the tax reporting, submitted to a tax body, the amounts of accrued (paid) income of a nonresident, withheld, exempted from withholding taxes in accordance with the regulations of the international agreements, the rates of the income tax and names of the international agreements.

At that, the tax agent shall submit a notarized copy of the document, confirming the residency of the nonresident legal entity, which corresponds with the requirements of paragraphs 4 and 5 of Article 219 of this Code to a tax body at its location. The copy of this document shall be submitted within three calendar days from the date of submission of the tax reporting, the deadline for submission of which comes after submission of this document by the nonresident to the tax agent in accordance with paragraph 3 of this Article.

7. A tax agent shall bear responsibility in accordance with the Laws of the Republic of Kazakhstan in case of unlawful application of the regulations of an agreement, which entailed to nonpayment or underpayment of taxes to the state budget.

**Footnote. Article 212 is in the wording of the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

**Article 212-1. The order of application of an international agreement regarding exemption from taxation or application of the reduced tax rate to the income of a nonresident in the form of dividends, remunerations and (or) royalties, received from the sources in the Republic of Kazakhstan**

1. A tax agent shall have the right to independently apply exemption from taxation or the reduced tax rate, provided by the appropriate international agreement when paying income of a nonresident in the form of dividends, remunerations and (or) royalties or when deducing the paid income of a nonresident in the form of remunerations and (or) royalties provided that this nonresident is the final (actual) recipient of the income and is a resident of the state, with which the international agreement is concluded.

For the purposes of this part, the final (actual) recipient (owner) of the income is a person who has the right of ownership, use, disposal of the income and who is a mediator in respect of this income, including agent, nominee.

2. In case, if the payment of a remuneration is performed to the final (actual) recipient (owner) of income through an agent, a tax agent shall have the right to apply exemption or the reduced rate of the income tax, provided by the appropriate international agreement with the state, a resident of which is this final (actual) recipient (owner) of income under simultaneous fulfillment of the following conditions:

1) the agreement (contract) shall reflect the amounts of remuneration for each person, who is the final (actual) recipient (owner) of the remuneration through an agent, specifying the information on this person (last name, name, patronymic (if there is one) of an individual or a name of a legal entity; the number of the tax registration in the state of incorporation (or its analogue) when there is one; the number of the state registration in the state of incorporation (or its analogue);

2) the document, which confirms the residency of a person who is the final (actual) recipient (owner) of the remuneration, meeting the requirements of paragraphs 4 and 5 of Article 219 of this Code, shall be submitted to a tax agent.

At that, the document which confirms the residency shall be submitted to the tax agent no later than one of the dates, specified in paragraph 3 of Article 212 of this Code which comes first.

3. A tax agent shall be obliged to specify the amounts of the accrued (paid) income of a nonresident and withheld, exempted from withholding taxes in accordance with the regulations of the international agreements, rates of the income tax and names of the international agreements in the annual reporting.

At that, the tax agent shall be obliged to submit a notarized copy of the document, which confirms the residency of a nonresident taxpayer (the final (actual) recipient (owner) of the income) corresponding with the regulations of paragraphs 4 and 5 of Article 219 of this Code to a tax body at its location. This copy shall be submitted within three calendar days from the date of submission of the tax reporting, the deadlines for submission of which comes after the time when the nonresident submits this document to a tax agent on one of the dates, specified in paragraph 3 of Article 212 of this Code.

4. In case that a tax agent does not apply the regulations of an international agreement when paying income in the form of remuneration to a nonresident through an agent in the order, established by paragraph 2 of this Article, the tax agent shall be obliged to withhold the income tax at the source of payment at the rate, specified by Article 194 of this Code.

The amount of the withheld income tax shall be transferred within the deadlines, set by Article 195 of this Code.



5. The final (actual) recipient (owner) of the income - a nonresident shall have the right to refund the overpaid income tax at the source of payment in accordance with the regulations of an international agreement in case that a tax agent transfers the income tax, which is withheld at the source of payment of the income to this nonresident, to the budget.

At that, the final (actual) recipient (owner) of the income - the nonresident shall be obliged to submit a notarized copy of the following documents to a tax agent:

1) A contract, concluded with an agent, which reflects the amount of remuneration of this nonresident, specifying the information on this person (last name, name, patronymic (if there is one) of an individual or the name of a legal entity; the number of the tax registration in the state of incorporation (or its analogue) when there is one; the number of the state registration in the state of incorporation (or its analogue);

2) the document which conforms its residency in the period, in which it received the income in the form of remuneration and which corresponds with the requirements of paragraphs 4 and 5 of Article 219 of this Code.

The documents, specified in this paragraph, shall be submitted by a nonresident within the limitation period, established by Article 46 of this Code from the date of the last transfer of the income tax, withheld at the source of payment to the budget, unless other deadlines are established by an international agreement.

At that, the refund of the overly withheld income tax to the final (actual) recipient (owner) of income - nonresident shall be performed by a tax agent.

6. When the conditions of paragraph 5 of this Article are fulfilled, a tax agent shall have the right to submit the additional calculation of the income tax, withheld at the source of payment in the amount of reduction when applying the reduced tax rate or exemption from taxation for a tax period, in which withholding and transfer of the income tax took place from the income of the final (actual) recipient (owner) of income - nonresident in the form of remuneration..

In the specified case, the set-off of the overpaid amount of the income tax, withheld at the source of payment, shall be performed to a tax agent in the order, established by Article 599 of this Code.

7. A tax agent shall bear responsibility in accordance with the Laws of the Republic of Kazakhstan in case of the unlawful application of the regulations of an international agreement, which caused the nonpayment or underpayment of the taxes to the state budget.

**Footnote. The Code is supplemented with Article 212-1 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

**Article 212-2. The order of application of an international agreement regarding partial exemption from taxation of income of a nonresident in the form of dividends on shares which are the underlying asset of the depository receipts**

1. A tax agent shall have the right to apply the reduced rate of the income tax, provided by the appropriate international agreement with the state, a resident of which is the final (actual) recipient (owner) of the income when the income is paid in the form of dividends on shares which are the underlying assets of the depository receipts to the final (actual) recipient (owner) of the income - nonresident through a nominal holder of the depository receipts under simultaneous fulfillment of the following conditions:

1) presence of the list of holders of depository receipts, containing:

the last names, names, patronymics (when there are ones) of individuals or names of the legal entities which are the owners of the depository receipts, the underlying assets of which are the shares, issued by a resident of the Republic of Kazakhstan;

the information on quantity and form of the depository receipts;

the names and attributes of the documents, confirming identities of the individuals or the numbers and dates of the state registrations of the legal entities.

The list of holders of the depository receipts shall be composed by the following persons:

an organization which has the right to perform depository activities in the securities market of the Republic of Kazakhstan in case if an agreement on accounting and confirming the ownership right for property on depository receipts is concluded between a resident - issuer of the shares, which are the underlying assets of the depository receipts, and this organization;

or another organization which has the right to perform depository activities in the securities market of a foreign state in case, if the agreement on accounting and confirming the ownership right for property on depository receipts is concluded between a resident - issuer of the shares, which are the underlying assets of the depository receipts, and this organization;

2) presence of the document, confirming the residency of a person who is the final (actual) recipient (owner) of dividends on shares, which are the underlying assets of the depository receipts, corresponding with the requirements of paragraphs 4 and 5 of Article 219 of this Code.

At that, the document, confirming the residency shall be submitted to a tax body no later than one of the dates, specified in sub-paragraph 3 of Article 212 of this Code which comes first.

2. A tax agent shall be obliged to specify in the tax reporting, submitted to a tax body the amounts of the accrued (paid) income and withheld, exempted from

withholding taxes in accordance with the regulations of the international agreements, rates of the income tax and the names of the international agreements.

At that, the tax agent shall be obliged to submit a notarized copy of the document, which confirms the residency of a nonresident taxpayer and which corresponds with the requirements of paragraphs 4 and 5 of Article 219 of this Code to a tax body at its location. This copy shall be submitted within three calendar days from the date of submission of the tax reporting, the deadline for submission of which comes after submission of this document by the nonresident to the tax agent on one of the dates, specified in paragraph 3 of Article 212 of this Code.

3. In case if a tax agent does not apply the regulations of an international agreement when paying a nonresident income in the form of dividends on shares which are the underlying assets of depository receipts in the order, established by paragraph 1 of this Article, the tax agent shall be obliged to withhold the income tax at the source of payment at the rate, defined by Article 194 of this Code.

The amount of the withheld income tax shall be subjected to transfer to the budget within the deadline, established by sub-paragraph 1) of paragraph 1 of Article 195 of this Code.

4. The final (actual) recipient of the income - nonresident shall have the right for reimbursement of the overly withheld income tax at the source of payment in accordance with the regulations of an international agreement in case, if a tax agent transfers to the budget the income tax which is withheld from the income of this resident.

At that, the nonresident shall be obliged to submit a notarized copy of the following documents to a tax agent:

1) the document, confirming the ownership right for property on the depository receipts, the underlying asset of which are the shares of a resident issuer;

2) the document, which confirms its residency within the period, in which the income in the form of dividends was received, and which corresponds with the requirements of paragraphs 4 and 5 of Article 219 of this Code.

The documents, specified in this paragraph shall be submitted by a nonresident within the limitation period, established by Article 46 of this Code from the date of the last transfer of the income tax, withheld at the source of payment to the budget, unless other deadlines are provided by an international agreement.

At that, the refund to the nonresident of the overly withheld income tax shall be performed by a tax agent.

5. A tax agent shall have the right to submit to a tax agent at its location the additional calculation on the income tax, which is withheld at the source of payment, in

the amount of reduction of the income tax when applying the reduced rate for a tax period, in which withholding and transfer of the income tax from income of a nonresident in the form of dividends on the share were performed.

In the specified case, the calculation of the overpaid amount of income tax, withheld at the source of payment, shall be performed to the tax agent in the order, established by Article 599 of this Code.

6. In case of unlawful application of the regulations of an international agreement which entailed nonpayment or underpayment of the taxes to the budget, a tax agent shall bear responsibility in accordance with the Laws of the Republic of Kazakhstan.

**Footnote. The Code is supplemented with Article 212-2 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

**Article 213. The order of application of an international agreement regarding exemption from taxation of income of a nonresident from international transportation services through a permanent establishment**

1. A nonresident shall have the right to apply the regulations of an international agreement in part of exemption from taxation of income from international transportation services, one party of which is the Republic of Kazakhstan, if it is the final recipient of income and a resident of the state, with which the international agreement is concluded.

The application of an international agreement in part of exemption from taxation shall be allowed only when the nonresident has the document, confirming the residency and corresponding the requirements of paragraphs 4 and 5 of Article 219 of this Code at the date of submission of the declaration for the corporate income tax.

A notarized copy of the document, confirming the residency shall be submitted by a taxpayer to a tax agent at the location of a permanent establishment when handing the declaration for the corporate income tax.

2. A nonresident shall be obliged to specify in the declaration for the corporate income tax the amount of income, the rate and name of an international agreement, on the basis of which this rate was applied.

3. At that, a nonresident legal entity shall be obliged to keep the separate accounting of the amounts of income from international transportation services (nontaxable in accordance with an international agreement) and from provision of services for international transportation (nontaxable in accordance with an international agreement) and from provision of transportation services (transportation) between the points, located in the territory of the Republic of Kazakhstan (subjected to taxation).

4. The amount of expenses in connection with provision of international transportation services shall be determined by the direct or the proportional method.

At that, a taxpayer shall have the right by its choice to apply one of the specified methods of calculation of expenses. The chosen method shall be used annually and can be changed only by the agreement with a tax authority, which is a superior towards a tax body at the location of the taxpayer (except for an authorized body), before the beginning of the reporting tax period.

5. The direct method provides determination of the appropriate expenses on the basis of keeping the separate accounting of expenses in connection with provision of services for international transportation (nontaxable in accordance with an international agreement) and expenses in connection with provision of services for transportation (transportation) between the points located in the territory of the Republic of Kazakhstan (subjected to taxation).

6. The proportional method provides the determination of the specified expenses as the product of a share and the total amount of expenses of a nonresident in connection with the activity, aimed at receiving income from the sources in the Republic of Kazakhstan for the reporting tax period. The share shall be determined as the ratio of the amount of income from provision of international transportation services to the total amount of the income received from the sources in the Republic of Kazakhstan.

7. A taxpayer shall bear responsibility in accordance with the legislature of the Republic of Kazakhstan in case of unlawful application of the regulations of an international agreement which entailed nonpayment or underpayment of the tax to the budget.

**Footnote. Article 213 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

**Article 214. The order of application of an international agreement regarding partial exemption from taxation of a net income from a nonresident's activity in the Republic of Kazakhstan through a permanent establishment**

1. A nonresident shall have the right to apply the reduced rate of the tax on a net income from the activity in the Republic of Kazakhstan through a permanent establishment, provided by the respective international agreement, if it is a resident of the state, with which the international agreement was concluded, and this international agreement provides the order of taxation of a net income of the nonresident which is different from the order, established by Article 199 of this Code.

The application of the reduced rate of the tax shall be allowed when a nonresident has the document, confirming the residency and corresponding with paragraphs 4 and 5 of Article 219 of this Code on the date of submission of the declaration for the corporate income tax.

A notarized copy of the document, confirming the residency shall be submitted by a nonresident to a tax body at the location of a permanent establishment when handing the declaration for the corporate income tax.

2. A nonresident shall be obliged to specify the amount of the tax on the net income, the rate and name of an international agreement, on the basis of which this rate was applied, in the declaration for the corporate income tax.

3. A nonresident taxpayer shall bear responsibility in accordance with the Republic of Kazakhstan in case of unlawful application of the regulations of an international agreement which entailed nonpayment or underpayment of the tax to the budget.

**Footnote. Article 214 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

**Article 215. The order of application of an international agreement regarding exemption from taxation of a nonresident individual's income, received from the persons who are not the tax agents**

1. A nonresident individual shall have the right to apply the regulations of an international agreement in part of exemption from taxation of the income, specified in Article 204 of this Code, if he/she is the final recipient of the income and is a resident of the state, with which the international agreement was concluded.

The application of an international agreement in part of exemption from taxation shall be allowed only when a nonresident has the document, which confirms the residency and corresponds with the requirements of paragraphs 4 and 5 of Article 219 of this Code on the date of submission of the declaration for the individual income tax.

A notarized copy of the document, confirming the residency shall be submitted by a nonresident taxpayer to a tax body at the place of its stay (residence) when handing the declaration for the individual income tax.

2. The amounts of distributed (received) income and paid (exempted from payment) taxes in accordance with the regulations of an international agreement and the name of the international agreement shall be specified by a nonresident individual in the declaration for the individual income tax.

3. A nonresident individual shall be obliged to pay the income tax to the budget in the order and within the deadlines, established by Article 204 of this Code when there is no document, confirming the residency on the date of submission of the declaration for the individual income tax.

At that, in case that the income tax from the income, received from the sources in the Republic of Kazakhstan is paid to the budget by a nonresident individual who has the right to apply the regulations of the appropriate international agreement, this nonresident shall have the right to refund the paid income tax from the budget in the order, established by Article 217 of this Code.

Footnote. Article 215 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

**Article 216. The order of transfer of the income tax from the income of a nonresident to the budget or on a conditional bank deposit**

1. In case, if a tax agent does not apply the order, established by Article 212, 212-1 and 212-2 of this Code, the tax agent shall be obliged, at the moment of payment of income to a nonresident, to withhold the income tax at the source of payment at the rate, determined by paragraph 1 of Article 158 or by Article 194 of this Code, and to transfer the amount of the withheld income tax within the deadlines, established by Article 161, 195 of this Code to the budget or on a conditional bank deposit, opened for the nonresident.

The order of transfer of the income tax to a conditional bank deposit shall be applied only to the tax, withheld from the income of a nonresident from execution of works, provision of services in the Republic of Kazakhstan which do not lead to formation of a permanent establishment.

2. A nonresident that receives income, a tax agent and a resident bank, determined by a tax agent shall conclude the agreement on opening a conditional bank deposit for a nonresident in the form, coordinated with the participants of the agreement before the established deadline for transfer of the income tax from the income of the nonresident by the tax agent.

3. A conditional bank deposit shall be opened in the national or a foreign currency. In case of opening of a conditional bank deposit in a foreign currency the amounts of the income tax and bank remunerations shall be transferred in the national currency, converted at the market rate of exchange on the date of transfer of the tax to the budget

4. The bank, on an account of which a conditional bank deposit is placed, shall be obliged no later than the 15th of the second month following the reporting quarter, to submit the statement of cash flows during the reporting quarter to a tax body at the location of a tax agent in the form, established by the Government of the Republic of Kazakhstan. The statement shall be submitted for the quarter, in which the cash flows occurred in the account, on which the conditional bank deposit is placed.

Making adjustments and (or) additions to the statement and its submission shall be performed in the cases and the order, established by this Code for tax reporting.

5. A tax agent shall be obliged to submit the following to a tax body at its location:

1) the contract on a conditional bank deposit within ten calendar days from the date of its signing (a copy of this contract shall be kept in the specified tax body);

2) the calculation on the corporate income tax which is withheld at the source of payment from the income of a nonresident within the deadlines, established by Article



196 of this Code and which reflects the amounts of the income tax, transferred to the conditional bank deposit.

6. A tax body at the location of a tax agent shall be obliged to register a contract or to refuse to register an agreement on a conditional bank deposit within two calendar days from the date of submission of this contract by the tax agent. At that, only the contract on a conditional bank deposit, the conditions of which do not contradict with the provisions of this Article, shall be subjected to registration. The discrepancy of the conditions of the contract on a conditional bank deposit with the provisions of this Article shall be the ground for refusal to register.

7. A nonresident and a tax agent shall not have the right to dispose the amount of the income tax, which is placed in a conditional bank deposit before a tax body makes the decision in favor of the nonresident.

8. The provisions of this Article shall be applied only to a contract on a conditional bank deposit which is registered in a tax body.

9. In case, if there is not registration in a tax body of a contract on a conditional bank deposit on the date of transfer of the income tax, withheld at the source of payment, determined in accordance with Article 195 of this Code, the transfer of the income tax shall be made to the budget within the established deadlines.

10. A tax agent shall be obliged to specify in the calculation, submitted to a tax body the amounts of the calculated (paid) income and withheld taxes and the rate, at which the income tax is calculated.

11. A tax body shall be obliged to keep accounting of the amounts of the income tax:

placed on conditional bank deposit;

refunded to a nonresident which has the right to apply the provisions of an international agreement;

transferred to the budget.

**Footnote. Article 216 as amended by the Laws of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 217. The order of refunding of the income tax from the budget or a conditional bank deposit**

1. A nonresident shall have the right to refund the income tax in accordance with the provisions of an international agreement in the order, established by this Article in the following cases:

1) of transfer of the income tax from the income of a nonresident, received from the sources in the Republic of Kazakhstan on a conditional bank deposit or to the budget;



2) that a nonresident performs the activity in the Republic of Kazakhstan through an affiliate, representative office which does not lead to formation of a permanent establishment in accordance with the international agreement;

3) of payment of the tax by a taxpayer in accordance with the provisions of this Code.

At that, the nonresident shall be obliged to submit a tax application on refund of the paid income tax from the budget or a conditional bank deposit to a tax body on the basis of an international agreement (for the purposes of this Article and Article 218 of this code, hereinafter - the application) attached to the documents, specified by Article 219 of this Code.

2. The application shall be submitted by a nonresident in a duplicate to a tax body which is a superior towards a tax body at the place of stay (residence) of a tax agent, unless otherwise provided by this paragraph.

In case, if a tax agent, registered at the place of stay (residence) in a tax body which is directly vertically subordinated to an authorized body, the application shall be submitted to this tax body.

The date of submission of the application to the tax body, depending on the method of submission is:

1) in person - the date of the receipt of the application by the tax body;

2) by mail, by a registered letter with acknowledgment - the date of receipt of the application by the tax body.

3. The application shall be submitted by a nonresident on termination of execution of works, provision of services in the Republic of Kazakhstan when the conditions of an international agreement are fulfilled and works are executed as well as services are provided in the Republic of Kazakhstan, except for execution of works, provision of services under the long-term contracts.

For the purposes of this part, a long-term contract is a contract (agreement) on executions of works, provision of services which is not terminated during twelve-month period from the date of its conclusion.

4. The application shall be submitted by a taxpayer to a tax agent before the expiry of the limitation period, defined by Article 46 of this Code from the date of the last placement of the amounts of the income tax on a conditional bank deposit or from the date of the last transfer of the income tax to the budget, unless otherwise provided by an international agreement.

The application of the long-term contracts shall be submitted by a nonresident to a tax body during the actual executing of the contract no later than expiry of the limitation period, established by Article 46 of this Code, unless otherwise provided by an international agreement.

5. A tax body shall refuse to consider the application in the following cases:

1) submission of the application by a nonresident after the expiry of the deadline, established by paragraph 4 of this Article. At that, the nonresident shall not have the right to re-apply to the tax body;

2) discrepancy of the document, confirming the residency with the requirements, established by paragraphs 4 and 5 of Article 219 of this Code;

3) a nonresident does not submit the documents, determined by Article 219 of this Code;

4) inobservance of the provisions of paragraph 2 of this Article by a nonresident.

At that, the decision of a tax body to refuse to consider the application shall be sent to a nonresident with attachment of the application and the submitted documents within seven working days from the date of their receipt by the tax body, specifying the reasons of the refusal against signature or by a registered letter with acknowledgment.

In case, if a tax body refuses to consider the application on the grounds, provided by sub-paragraphs 2), 3) and 4) of this paragraph, a nonresident shall have the right to re-apply within the deadline, established by paragraph 4 of this Article, if the nonresident eliminates the violations.

6. A tax body shall consider the application within thirty working days from the date of its submission by a nonresident.

At that, the period of consideration of the application, provided by this paragraph, shall be suspended for the period:

1) of the thematic audit, specified in paragraph 8 of this Article;

2) from the date when the tax body sends the request, specified in paragraphs 7, 9 and 10 of this Article to the date of receipt of the response on this request.

7. During consideration of the application of a nonresident, a tax body shall have the right to direct a request to other tax bodies, state bodies, to the competent bodies of foreign states, banks and organizations, performing certain banking operations, and other organizations, working in the territory of the Republic of Kazakhstan on provision of the necessary information, and to the nonresident on the issues, related to refund of the tax.

8. A tax body shall perform the thematic audit on refunding of the paid income tax from the budget or from a conditional bank deposit on the basis of the tax application of a nonresident in the order, specified by Chapter 89 of this Code when considering the application of the nonresident, except for the case, specified in paragraph 10 of this Article.

9. In case, if a nonresident has a representative office or an affiliate in the Republic of Kazakhstan, a tax body, which considers the application, shall be obliged to submit a request to perform an unplanned complex tax audit of a nonresident for the limitation

period, established by Article 46 of this Code on the issue of fulfillment of its tax obligations and presence or absence of a permanent establishment to a tax body at the location of the representative office or the affiliate.

10. In case of liquidation, bankruptcy of a tax agent, a tax body shall have the right to submit a request to provide the information on interrelations of the tax body and a nonresident to a competent body of the state of residence of the nonresident, the application of which is considered.

At that, the decision, specified in paragraph 11 of this Article, shall be applied on the basis of the received information on the request of the tax service bodies from the competent body of the state of residence of the nonresident and (or) the data of the tax reporting on the income tax, withheld at the source of payment, submitted by the liquidated or the tax agent, recognized as bankrupt.

In case of the written refusal of the competent body of a foreign state to provide the information on the request, sent on the grounds, provided by the first part of this paragraph or failure to respond for more than two years, the tax body shall be obliged to refuse to consider the application. At that, a taxpayer shall have the right to initiate the mutual agreement in accordance with the provisions of Article 226 of this Code.

11. One of the following decisions shall be made upon the results of consideration of the application of a nonresident:

- 1) to refund fully or partially the income tax, withheld at the source of payment;
- 2) to refuse to refund the income tax, withheld at the source of payment;

The decision of the tax body shall be formalized in writing and signed by the head or his/her deputy.

The submitted application shall state the amount of the income tax, refundable in accordance with the provisions of an international agreement and the application itself shall be signed by the head or his/her deputy and sealed with the stamp by a tax body when the tax body makes the decision to refund fully or partially the income tax, withheld at the source of payment.

The decision of the tax body upon the results of consideration of the application to refund the income tax, withheld at the source of payment shall specify:

- 1) the date of the decision-making;
- 2) the name of the tax body that made the decision;
- 3) the full name of the nonresident, who submitted the application;
- 4) the number of the tax registration in the state of incorporation (or its analogue) when there is one;
- 5) in case of the decision to refund - the amount of the income tax, refundable to the nonresident from the budget or from a conditional bank deposit;
- 6) in case of the decision to refuse to refund the income tax, withheld at the source of payment - the justification with reference to the norms of the legislation of the

Republic of Kazakhstan and (or) with specification of the information, received on the basis of the request of the tax service body from the competent body of a foreign state, which guided the tax body in making the decision.

12. In case if a higher body makes a decision to refund fully or partially the income tax, withheld at the source of payment, the copies of the decision and the application of a nonresident shall be sent by this tax body to the tax body, in which the tax agent, which performed the withholding of the income tax at the source of payment from the income of the nonresident, is registered at the place of stay (residence).

13. In case of payment of the income tax to the budget and when a tax body makes the decision to refund the income tax, withheld at the source of payment, the tax body, in which a tax agent is registered at the place of stay (residence), shall refund the amount of the income tax from the budget to a nonresident in the order, specified by Article 602 of this Code within thirty working days from the date of this decision-making.

14. In case of transfer of the income tax on a conditional bank deposit and when a tax body makes the decision to refund the income tax, withheld at the source of payment, a bank shall refund the amount of the income tax from the conditional bank deposit, specified in the application and the amount of the calculated bank remunerations to a nonresident. At that, the application, certified by the tax body, shall be personally submitted to the bank by the nonresident.

15. The decision of a tax body with attachment of one copy of the application of a nonresident shall be handed to a nonresident against the signature or shall be sent as a registered letter with the acknowledgment of receipt.

The date of receipt of the decision of a tax body by a nonresident shall be the date of handing or noting of the nonresident in the notification of mail or other communication organization.

16. In case of disagreement with the decision of a tax body, specified in paragraph 11 of this Code, a nonresident shall have the right to appeal against it to an authorized body within ninety calendar days from the date of receipt of the tax body's decision.

At that, the nonresident must submit:

1) to an authorized body - a complaint in a written form with attachment of a copy of the decision of the tax body, and the documents, specified by Article 219 of this Code, except for the application;

2) to the tax body, the decision of which is appealed by the nonresident - a copy of a complaint, submitted to an authorized body.

The complaint shall specify:

1) the date of signing the complaint by a nonresident;

2) the last name, name and patronymic (when there is one) or full name of the person, submitting the complaint, its place of residence (stay);

- 3) the number of the tax registration in the state of incorporation of a nonresident (or its analogue) when there is one;
- 4) the name of the tax body, the decision of which is applied by a nonresident;
- 5) the circumstances, on which the person, who makes the complaint, bases its claims and evidences, supporting these circumstances;
- 6) the list of the attached documents.

17. An authorized tax body shall submit the decision to refuse to consider a complaint of a nonresident to the nonresident within five working days from the date of submission of the complaint in the following cases:

- 1) the nonresident submits the complaint after the deadline, specified in paragraph 16 of this article;
- 2) discrepancy of the content of the complaint with the requirements, established by paragraph 16 of this Article;
- 3) discrepancy of the document, confirming the residency with the requirements, established by paragraph 4 and 5 of Article 219 of this Code;
- 4) the nonresident does not submit the documents, specified by Article 219 of this Code;
- 5) the nonresident submits the complaint (application) against the decision of the tax body, specified in paragraph 11 of this Article to a court.

In case, if an authorized body refuses to consider the complaint on the grounds, provided by sub-paragraphs 2), 3) and 4) of this paragraph, a nonresident shall have the right to re-apply the complaint within ninety days from the date of receipt of the decision to refuse to consider the complaint, if the violations are eliminated by the nonresident.

18. An authorized body shall consider a complaint within thirty working days from the date of its submission by a nonresident.

19. The period of consideration of a complaint of a nonresident shall be suspended in case if an authorized body submits a request to a competent body of a foreign state or to the state bodies of the Republic of Kazakhstan, and to the nonresident on the issues, related to consideration of its application on provision of the necessary information - before receiving this information.

20. An authorized body shall make one of the following decisions upon the results of considering a complaint:

- 1) to refund fully or partially the income tax, withheld at the source of payment;
- 2) to refuse to refund the income tax, withheld at the source of payment.

The decision of an authorized body shall be formalized in a written form and shall be signed by the head or his/her deputy and shall be handed to a nonresident against signature or shall be sent to the nonresident as a registered letter with acknowledgment of receipt.

The date of receipt of the tax body's decision by a nonresident shall be the date of handing or noting of the nonresident in the notification of a mail or another communication organization.

The decision of an authorized body upon the results of considering a complaint shall specify:

- 1) the date of the decision-making;
- 2) full name of the nonresident, submitting the application;
- 3) the number of the tax registration in the state of incorporation (or its analogue) when there is one;
- 4) in case of application of the decision to refund - the amount of the income tax, refundable to a nonresident from the State Budget or a conditional bank deposit;
- 5) in case of the decision to refuse to refund the income tax, withheld at the source of payment - the justification with reference to the norms of the legislation of the Republic of Kazakhstan and (or) with specification of the information, received on the basis of the request of the tax service body from the competent body of a foreign state, which guided the tax body in making the decision.

21. A copy of the decision of an authorized body shall be submitted to a tax body, the decision of which was appealed by a nonresident.

In case, if an authorized body makes a decision to refund the income tax, withheld at the source of payment, a tax body, the decision of which was appealed by a nonresident, shall specify the amount of the income tax, which is refundable in accordance with the provisions of an international agreement in the application previously submitted to this tax body. The date of certification of the application shall be the date of receiving a copy of the decision of the authorized body by this tax agent. At that, the application shall be certified by the signature of the head or his/her deputy and by the stamp of this tax body and shall be handed to the nonresident against signature or shall be sent as a registered letter with acknowledgment of receipt or in person.

A superior tax body, the decision of which was appealed by a nonresident, shall submit copies of the specified decision and the certified application of this nonresident to the tax body, in which a tax agent is registered at the place of stay (residence), which performed the withholding of the income tax at the source of payment from the income of the nonresident.

22. In case, if a nonresident submits a complaint (application) against the decision, specified in paragraphs 11 or 20 of this Article to a court within the deadline, established by paragraph 1 of Article 218 of this Code, the submission of the collection order to a bank on transfer of the amount of the tax, placed on a conditional bank deposit, to the budget, shall be suspended from the date of receiving the complaint by a court for proceedings before implementation of a judicial act.

Footnote. Article 217 is in the wording of the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

**Article 218. The order of transfer of the income tax from a conditional bank deposit to the budget**

1. A tax body shall be obliged to submit the collection order to a bank on transfer of the amount of the tax, placed on a conditional bank deposit, to the budget within the following deadlines:

1) in the case of non-receipt of a copy of a complaint, specified by paragraph 16 of Article 217 of this Code, by a nonresident - after ninety calendar days from the date of receiving the decision, specified in paragraph 11 of Article 217 of this Code by the nonresident;

2) in case a nonresident appeals against the decision, specified in paragraph 11 of Article 217 of this Code to an authorized body - after ninety calendar days from the date of receiving the decision, specified in paragraph 20 of Article 217 of this Code by the nonresident;

3) in case a court makes a decision to refuse to satisfy fully or partially the complaint (application), specified in paragraph 22 of Article 217 of this Code - within five calendar days from the date of implementation of this decision;

At that, in case that tax service bodies or a court make the decision on partial refund of the income tax, withheld at the source of payment, the collection order shall be sent on the amount of the tax, placed on a conditional bank deposit, corresponding with the part of the claim, in which the nonresident was denied.

2. In case, if a nonresident does not submits the application to a tax body before the deadline, established by paragraph 4 of Article 217 of this Code, the tax body shall be obliged to submit the collection order on transfer of the amount of the tax, placed on a conditional bank deposit, to a bank within fifteen calendar days after the specified deadline.

3. A tax body shall simultaneously submit a request on the amounts of bank remunerations, accrued since the placement of the amount of the income tax on a conditional bank deposit of a nonresident before its transfer to the budget and the collection order in the order and in the form, defined by the Government of the Republic of Kazakhstan.

4. A bank shall be obliged within two calendar days from the date of receiving the request to submit the information on the accrued bank remunerations to a tax body in the form, established by the Government of the Republic of Kazakhstan.

Making adjustments and (or) additions to the information on the accrued amounts of bank remunerations and their submission shall be performed in the cases and in the order, specified by this Code for tax reporting.

5. A tax body shall be obliged within two calendar days after receiving the information on the accrued amounts of bank remunerations to submit to a bank the collection order on recovery of the amounts of bank remunerations to the budget.

6. A bank shall be obliged no later than one operational day following the date of receiving the collection order to transfer the amount of the income tax, placed on a conditional bank deposit, and the accrued bank remunerations to the budget.

7. A bank shall bear responsibility in accordance with the Laws of the Republic of Kazakhstan when violating the conditions of a contract on a conditional bank deposit and untimely transferring of the withheld amounts of the income tax to the budget that occurred due to the fault of the bank.

8. In case, if it is impossible for a bank to fulfill the obligations to transfer the amount of the income tax, placed on a conditional bank deposit to the budget, the obligation to transfer the income tax at the source of payment, bank remunerations and penalties for untimely transfer of the tax to the budget shall be entrusted to a tax agent.

**Footnote. Article 218 as amended by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

**Article 219. Requirements for the document, confirming the residency and the tax application on refund of the paid income tax from the budget or a conditional bank deposit under an international agreement**

1. In case of application of Article 217 of this Code, the tax application on refund of the paid income tax from the budget or a conditional bank deposit under an international agreement shall be submitted by a nonresident to a tax body with the attachment of:

1) The notarized copies of contracts (agreements) on execution of works, provision of services or for other purposes;

2) The notarized copies of the founding documents or extracts from the trade register (the register of shareholders or other similar document, provided by the legislation of the state, in which the nonresident is registered), specifying the shareholders (participants) and the majority shareholders of a nonresident legal entity;

3) The copies of the accounting documents, confirming the amounts of the received income and withheld (paid) taxes;

4) the document, confirming the residency, handed by a competent body of the state of residency or its notarized copy;

5) the copies of the documents, confirming the identities of the nonresident individuals, who are employees or other personnel, hired by a nonresident for



execution of works, provision of services in the territory of the Republic of Kazakhstan and the documents, confirming the periods of their stay in the territory of the Republic of Kazakhstan.

2. In case if a nonresident submits a tax application on refund of the paid income from the budget or a conditional bank deposit on the basis of an international agreement from the income, received from the shares which are the underlying asset of the depository receipts, the following documents shall be attached to the application:

1) an extract from an account, which is received from a shareholder of the joint-stock company "Central Securities Depository" and which contains:

last name, name, patronymic (if there is one) of the nonresident;

the information on the number and the form of depository receipts;

the name and accessories of the document, confirming the identity of the nonresident (for an individual), the number and the date of the state registration of the nonresident (for a legal entity);

2) the decision of the general meeting of shareholders - an issuer of the shares, which are the underlying asset of depository receipts, on payment of dividends for a certain period, specifying the amount of the dividend per share and the date of making the list of the shareholders who have the right to receive the dividends;

3) the extracts from a foreign currency account on the received amounts of dividends;

4) the document, confirming the residency of this nonresident and corresponding with paragraphs 4 and 5 of this Article.

3. In case, if the documents, specified in paragraphs 1 and 2 of this Article are composed in a foreign language, a nonresident shall be obliged to attach their notarized translation into Kazakh or Russian languages.

4. For the purposes of application of the provisions of this Chapter, the document, confirming the residency of a foreigner is the official document, confirming that the foreigner - recipient of the income is a resident of the state, with which an international agreement is concluded:

1) within the period of the time, specified in this document;

2) in case, if this document does not specify the period of time within the calendar year, in which it is handed.

The document, confirming the residency of a foreigner shall be certified by a competent body of a foreign state, a resident of which the foreigner - recipient of the income is.

5. The signature and the stamp of a body which certifies the documents, confirming the residency of a nonresident, and the signature and the stamp of a foreign notary in case of notarizing a copy of the documents, specified in sub-paragraph 1), 2) and 4) of paragraph 1 of this Article shall be subjected to diplomatic or consulate legalization in

the order, defined by the legislation of the Republic of Kazakhstan or shall be subjected to apostilization in accordance with an international agreement of the Republic of Kazakhstan.

**Footnote. Article 219 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

**Article 220. A certificate on the amounts of income, received from the sources in the Republic of Kazakhstan and the withheld (paid) taxes**

1. A nonresident shall have the right to receive a certificate on the amounts of income, received from the sources in the Republic of Kazakhstan and withheld (paid) taxes in a tax body for the purposes of receiving the set-off of taxes, which are paid in the Republic of Kazakhstan, in the state of residence or deduction of income from the sources in the Republic of Kazakhstan.

2. A nonresident shall be obliged to submit a tax application to the following tax body for receiving a certificate on the amounts of the received income from the sources in the Republic of Kazakhstan and the withheld (paid) taxes:

1) a nonresident legal entity operating in the Republic of Kazakhstan without forming a permanent establishment - at the location of the tax agent;

2) a nonresident legal entity operating in the Republic of Kazakhstan through a permanent establishment - at the location of the permanent establishment;

3) a foreigner or a stateless person- at the location of the tax agent;

4) a foreigner or a stateless person who personally pay taxes from the income, coming from the sources in the Republic of Kazakhstan - at the place of stay (residence ) in the Republic of Kazakhstan.

3. A certificate on the amounts of the received income from the sources in the Republic of Kazakhstan and withheld (paid) taxes shall be handed by a tax body no later than fifteen calendar days from the date, which is the most recent of the following dates:

of submission of a tax application;

of submission of the appropriate form of the tax reporting, which must reflect the amounts of the distributed income of a nonresident, which is payable by a nonresident taxpayer and (or) a tax agent.

4. A tax body shall send a written refusal to a nonresident to issue the certificate when revealing discrepancy between the data of the nonresident's tax application with the data, specified in the forms of the tax reporting of the taxpayer and (or) the tax agent, and in case of absence of the tax payment or presence of tax arrears of the taxpayer and (or) the tax agent on transfer of the tax from the income of nonresidents on the date of submitting the tax application.

5. In case that a nonresident does not submit a tax application, a tax body shall not hand a certificate on the amounts of the received income from the sources in the Republic of Kazakhstan and the withheld (paid) taxes.

6. A certificate on the amounts of the received income from the sources in the Republic of Kazakhstan and withheld (paid) taxes shall be handed to a nonresident against the signature in the journal of issuance of documents.

**Footnote. Article 220 as amended by the Laws of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

## **Chapter 27. SPECIFICS OF TAXATION OF INCOME OF RESIDENTS FROM THE EXTERNAL ECONOMIC ACTIVITIES**

### **Article 221. The income, received from the sources outside the Republic of Kazakhstan**

1. For the purposes of this Code, the income from the sources outside the Republic of Kazakhstan regardless of the place of payment is all of the income which are not the income from the sources in the Republic of Kazakhstan.

2. A resident taxpayer shall be obliged to declare the income from the sources outside the Republic of Kazakhstan, including those, coming from the sources in the states with preferential taxation, in the tax declaration in the Republic of Kazakhstan.

### **Article 221-1. The order of determination of income from realization of property, received from the sources outside the Republic of Kazakhstan**

1. When undertaking the realization of property the income, received from the sources outside the Republic of Kazakhstan is the cost of the property realization, unless otherwise provided by this Article.

2. When undertaking the realization of property the income, received from the sources outside the Republic of Kazakhstan shall be determined as the positive disparity between the cost of the property realization and the cost of its purchase when realizing the following property:

1) The property which is located outside the Republic of Kazakhstan, the right on which or transactions with which shall be subjected to the state registration in a competent body of a foreign state in accordance with the legislation of the foreign state ;

2) The property, located outside the Republic of Kazakhstan which is subjected to the state registration in a competent body of a foreign state in accordance with the legislation of the foreign state;

3. The income, coming from realizing securities, except for the debt securities, received from the sources outside the Republic of Kazakhstan shall be determined as the positive disparity between the cost of realization and the cost of purchase.

4. When undertaking the realization of the debt securities the income, received from the sources outside the Republic of Kazakhstan shall be determined as the positive disparity without a coupon between the cost of realization and the cost of purchase, taking into account depreciation of a discount and (or) a remuneration on the date of the realization.

5. The income from selling of a share of participation, received from the sources outside the Republic of Kazakhstan shall be determined as the positive disparity between the cost of realization and the cost of purchase (contribution).

6. The provisions of paragraph 2 of this Article shall be applied in the following cases:

1) real estate shall be located in the territory of a state with the preferential taxation ;

2) the rights for movables or transaction with movables shall be registered in a competent body of a state with the preferential taxation.

7. The provisions of paragraphs 3, 4 and 5 of this Article shall not be applied in case if the income, specified in paragraphs 3, 4 and 5 of this Article is received from the sources in a state with the preferential taxation.

8. The provisions of paragraphs 2, 3, 4 and 5 of this Code shall be applied on the basis of the following documents, confirming:

- 1) the cost of purchase of the property (the cost of a contribution);
- 2) the cost of realization of the property;
- 3) the registration of the ownership right for the property and (or) transactions with property by a competent body of a foreign state in accordance with the legislation of the foreign state.

**Footnote. The Code is supplemented with Article 221-1 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2009).**

**Article 222. The order of deduction of expenses of a resident legal entity in connection with the activity, aimed at receiving income outside the Republic of Kazakhstan**

1. A resident taxpayer shall attribute to deduction the expenses in connection with the activity in the Republic of Kazakhstan, aimed at receiving income, including income from the sources outside the Republic of Kazakhstan, in the order, established by the provisions of parts 4 and 6 of this Code.

2. A resident taxpayer shall attribute to deduction the expenses, incurred in the Republic of Kazakhstan and outside the Republic in connection with the activity aimed

at receiving income from the sources outside the Republic of Kazakhstan through a permanent establishment to its permanent establishment, located in a foreign state in accordance with the provisions of the tax legislation of this foreign state.

3. Deduction of the management and general administrative expenses, incurred in the Republic of Kazakhstan and outside the Republic for the purposes of receiving the taxable income shall be allowed when determining this taxable income of a permanent establishment of a resident legal entity in a foreign state in accordance with the provisions of the tax legislation of this foreign state or an international agreement.

4. The amount of the management and general administrative expenses shall be attributed to the deductions in a foreign state, from sources of which the income was received by a resident legal entity, in the order, provided by the tax legislation of this foreign state.

In case, if the tax legislation of a foreign state, from the sources of which the income was received by a resident legal entity, or an international agreement allows deduction of the management and general administrative expenses, but at that, the tax legislation of the foreign state does not provide the order of attributing these expenses to deductions, a resident taxpayer shall attribute to deductions the management and general administrative expenses in the specified foreign state in the order, established by Article 208 - 211 of this Code.

**Footnote. Article 222 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

### **Article 223. Set-off of a foreign tax**

1. The amounts of taxes on income or an identical of the income tax from income, paid outside the Republic of Kazakhstan and received by a resident taxpayer from the sources outside the Republic of Kazakhstan shall be subjected to set-off against the payment of the corporate or the individual income tax in the Republic of Kazakhstan if the document confirming payment of this tax is provided.

This document is a certificate for the amounts of the received income from the sources in a foreign state and the paid income which is handed by a tax body of the foreign state.

In case, if a certificate, for the amounts of the received income from sources in a foreign state and paid income which is handed by a tax body of the foreign state, is composed in a foreign language, it is necessary to have the translation into Kazakh or Russian languages notarized in the order, established by the legislation of the Republic of Kazakhstan.

A taxpayer shall have the right to submit the certificate, specified by this paragraph on request of a tax body for the purpose of the in-house audit when attributing to

set-off taxes, paid in a foreign state against payment of the corporate or the individual income tax.

2. Set-off of a foreign tax shall not be provided in the Republic of Kazakhstan from the income of a resident taxpayer from the sources outside the Republic of Kazakhstan:

1) which are exempted from taxation in accordance with the provisions of this Code;

2) which are subjected to adjustment in accordance with Article 99 of this Code;

3) which are subjected to taxation in the Republic of Kazakhstan in accordance with the provisions of an international agreement regardless of the fact of payment and (or) withholding of taxes from this income in a foreign state within the overpaid amount of the tax in the foreign state. At that, the overpaid amount of the tax shall be determined as the disparity between the actually paid amount of the tax and the amount of the tax which is payable in the foreign state in accordance with the provisions of an international agreement.

3. The size of the credited amounts, provided by this Article shall be determined in each foreign state separately.

At that the size of a credited amount of the tax is the least of the following amounts :

1) the amount of the actually paid tax in a foreign state from the income, received by a resident taxpayer from the sources outside the Republic of Kazakhstan;

2) the amount of the income tax from the income from the sources outside the Republic of Kazakhstan, calculated in the Republic of Kazakhstan in accordance with the provisions of this Chapter and part 4 or 6 of this Code and the provisions of an international agreement.

A taxpayer shall perform the set-off of the foreign income tax from the income from the sources outside the Republic of Kazakhstan in the tax period, in which this income is receivable (received), within the limitation period, set by Article 46 of this Code.

In case if the income is recognized in a tax period which differs from the tax period , in which the specified income is recognized in accordance with this Code, in a foreign state, a resident taxpayer shall have the right to perform the set-off of the foreign income tax from the income from the sources outside the Republic of Kazakhstan in the tax period, in which this income was accrued in accordance with the tax legislation of the Republic of Kazakhstan.

4. A resident shall fill the appropriate attachment to the declaration for the corporate or the individual income tax in order to determine the total amount of the set-off of the income tax which is paid in a foreign state from the income received from the sources in this state.

5. *Excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).*

Footnote. Article 223 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

**Article 224. The income received in a state with the preferential taxation**

1. A nonresident, located and (or) registered in a state with the preferential taxation is a nonresident legal entity which simultaneously corresponds with the following conditions:

- 1) it shall be registered in a state with the preferential taxation;
- 2) 10 or more percent of its authorized capital or voting shares shall directly or indirectly belong to a resident of the Republic of Kazakhstan.

A part of income of nonresidents, located and (or) registered in a state with the preferential taxation, shall be included in the taxable income and, if there is no taxable income, it shall reduce a loss of a resident of the Republic of Kazakhstan, who directly or indirectly owns 10 or more percent of the authorized capital or voting shares of these nonresidents.

The provisions of this paragraph shall also be applied to participation of a resident in other forms of working organizations which do not form a legal entity, where a participation share directly or indirectly makes 10 or more percent.

The provisions of this paragraph shall not be applied to indirect participation of a resident in the authorized capital of a nonresident, located and (or) registered in a state with the preferential taxation, and (or) to indirect possession of voting shares of this nonresident, performed through another resident, by a resident.

A part of income of nonresidents, located and (or) registered in a state with the preferential taxation, which is subjected to inclusion in the taxable income, and in case, if there is no taxable income, which reduces a loss of a resident of the Republic of Kazakhstan, shall be determined taking into account a share of participation of the resident in the authorized capital and (or) an ownership share of voting shares of these nonresidents legal entities (hereinafter - the consolidated income) by the following formula:

$$CI = I1 * S1 + I2 * S2 + ... + In * Sn$$

where:

CI - is the consolidated income;

I1, I2, In - is the amount of income of the reporting period after taxation, recognized in a separate financial reporting of each nonresident, located and (or) registered in a state with the preferential taxation;

S1, S2, Sn - is a share of direct and indirect participation of a nonresident in the authorized capital of each nonresident, located and (or) registered in a state with the preferential taxation, or a share of direct or indirect possession by a resident of voting shares of this nonresident.

For the purposes of this Article, the reporting period is a period, the duration of which corresponds with the duration of the reporting tax period, determined in accordance with Article 148 of this Code.

In case if there is a discrepancy of the duration and dates of the beginning and the end of a reporting period and the reporting tax period, determined in accordance with Article 148 of this Code, in a state with the preferential taxation and the Republic of Kazakhstan, a taxpayer shall be obliged to adjust the amount of income as follows by using the correction factors (F1, F2):

$$I1, I2, In = Iy * F1 + Iy + 1 * F2,$$

$$F1 = TP (SR)1$$

$$TP (SR)3,$$

$$F2 = TP (SR)2$$

$$TP (SR)3,$$

where:

I1, I2, In - is the amount of income of the reporting period after taxation, recognized in a separate financial reporting of each nonresident, located and (or) registered in a state with the preferential taxation;

TP (SR)1 - is the number of months of one reporting period in a state with the preferential taxation, included in the scope of the tax reporting period in the Republic of Kazakhstan;

TP (SR)2 - is the number of months of the following reporting period in a state with the preferential taxation, included in the scope of the tax reporting period in the Republic of Kazakhstan;

TP (SR)3 - is the total number of months of the reporting period in a state with the preferential taxation;

Iy - is the amount of income of a nonresident, located and (or) registered in a state with the preferential taxation, after taxation for one reporting period in this state, a part of which shall be included in the reporting tax period in the Republic of Kazakhstan;

Iy + 1 - is the amount of income of a nonresident, located and (or) registered in a state with the preferential taxation, after taxation for another reporting period in this state, a part of which shall be included in the reporting tax period in the Republic of Kazakhstan.

For the purposes of this Article, a share of indirect participation of a resident in the authorized capital or indirect possession by a resident of the voting shares of a nonresident, located and (or) registered in a state with the preferential taxation (



hereinafter - a share of indirect participation or possession) shall be determined by the following formula:

$$X = X1 * X2 * ... * Xn * 100;$$

where:

X - is a share of indirect participation or possession in percentage;

X1 - is the coefficient of direct participation of a resident in the authorized capital of a nonresident, located and (or) registered in a state with the preferential taxation, or direct possession by a resident of the shares of this nonresident;

X2,..., Xn - is the coefficient of direct participation of each nonresident, located and (or) registered in a state with the preferential taxation, in the authorized capital of other nonresident, located and (or) registered in a state with the preferential taxation, or direct possession by each nonresident, located and (or) registered in a state with the preferential taxation, of shares of other nonresident, located and (or) registered in a state with the preferential taxation.

2. The amount of income of a reporting period after taxation of each nonresident, located and (or) registered in a state with the preferential taxation, a part of which shall be accounted when determining a part which is subjected to inclusion in the taxable income in accordance with paragraph 1 of this Article, and in case, if there is no taxable income, which reduces a loss of a resident in the Republic of Kazakhstan, shall be determined by a separate financial reporting of this nonresident.

Income of each nonresident, located and (or) registered in a state with the preferential taxation, on the date of its separate financial reporting for the purposes of application of the provisions of this Article by a resident of the Republic of Kazakhstan, shall be transferred in tenge with application of the arithmetic average of the market exchange rate for the reporting period, for which this reporting was composed.

**Note of the RCL!**

**Paragraph 3 shall be enforced from 01.01.2012 (see Article 9 of the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467).**

3. The resident, specified in paragraph 1 of this Article, shall be obliged no later than the 31st of December of the year following the reporting tax period to submit a certificate, composed by it, on nonresidents, located and (or) registered in a state with the preferential taxation, 10 or more percent of the authorized capital or the voting shares of which directly or indirectly belong to it, to a tax body at its location (residence). This certificate shall reflect the information on the names of nonresident legal entities, the numbers of their tax registration in the state of incorporation (or its analogue) when there are ones, the number of the state registration in the state of incorporation (or its analogue).

The resident, specified in paragraph 1 of this Article shall also be obliged to submit copies of the following documents with attachment of their notarized translation into Kazakh or Russian languages:

1) the consolidated financial reporting of a resident legal entity (in case, if the resident legal entity has a subsidiary, located and (or) registered in a state with the preferential taxation);

2) a separate financial reporting of each nonresident, located and (or) registered in a state with the preferential taxation;

3) an audit report for each financial reporting, specified in this paragraph in case, if the obligatory audit of such financial reporting is established for the specified persons by legislative acts of the Republic of Kazakhstan or a foreign state.

**Note of the RCLI!**

**Paragraph 4 shall be enforced from 01.01.2012 (see Article 9 of the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467).**

4. A foreign state or its administrative and territorial unit shall be recognized as a state with the preferential taxation in case, if they correspond with one of the following conditions:

1) the rate of the income tax in this state or administrative and territorial unit shall be less than 10 percent;

2) this state or administrative and territorial unit shall have the Laws on confidentiality of financial information or laws allowing maintaining secrecy on actual owner of property, income or actual owners, participants, founders, shareholders of a legal entity (company). The provisions of this sub-paragraph are not applied to the administrative and territorial units of the states, with which the Republic of Kazakhstan has an international agreement, providing provisions on exchange of information between competent bodies, except for the case when an authorized body receives a written refusal to provide the information, the exchange of which is provided by the specified international agreement, from a competent body of a foreign state or when a competent body of a foreign state or its administrative and territorial unit did not provide this information during more than two years after direction of the appropriate request by an authorized body.

The enumeration of states with the preferential taxation shall be approved by the Government of the Republic of Kazakhstan.

**Note of the RCLI!**

**Paragraph 5 shall be enforced from 01.01.2012 (see Article 9 of the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467).**

5. The provisions of this Article shall be applied regardless of the benefits provided by the Republic of Kazakhstan to a resident and (or) benefits, established by the legislation of the Republic of Kazakhstan for a resident, investment tax preferences,

most favored nation basis, and other taxation conditions which are more favorable than those, provided by this Code.

Footnote. Article 224 is in the wording of the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (the order of enforcement see Article 2)

#### **Article 225. The order of implementation of an international agreement in a foreign state**

1. In case if a resident performs an activity in a foreign state, with which the Republic of Kazakhstan has an international agreement, when fulfilling the conditions of the appropriate international agreement, the resident shall have the right to apply the provisions of this international agreement in the specified state.

2. The provisions of an international agreement shall be applied to the income of a resident from the sources outside the Republic of Kazakhstan when fulfilling the conditions, established by Article 206 of this Code.

3. For the purposes of application of an international agreement, a person shall submit a tax application on confirmation of the residency to a tax body, which is a superior towards the tax body, in which this person is registered at the place of stay (residence), in order to confirm the residency in the Republic of Kazakhstan.

In case, if a person is registered at the place of stay (residence) in a tax body, which is directly vertically subordinated to an authorized body, a tax application on confirmation of the residency shall be submitted to this tax body.

At that, the following persons shall be obliged to submit the notarized copies of the following documents along with a tax application on confirmation of the residency:

1) a foreign legal entity which is a resident on the basis that its place of effective management is located in the Republic of Kazakhstan - of the document, confirming presence of the place of effective management (the location of the actual governing body) of the legal entity (minutes of the general meeting of the board of directors or a similar body with specification of its venue or other documents, confirming the place of the basic management and (or) control and making strategic commercial decisions which are necessary to perform the entrepreneurial activity of the legal entity) in the Republic of Kazakhstan;

2) a citizen of the Republic of Kazakhstan who is a resident - an identity card or a passport of the Republic of Kazakhstan;

3) a foreigner and a stateless person who are the residents:  
an identity card or a passport;  
a document, confirming the period of stay in the Republic of Kazakhstan (a visa or other documents);  
a residence permit in the Republic of Kazakhstan (when there is one).

4. Following the consideration of a tax application on confirmation of the residency, a tax body within fifteen calendar days from the date of its submission shall:

1) hand the document, confirming its residency in the form, established by an authorized body, to a person.

The tax body shall confirm the residency of the person for each calendar year, specified in the tax application on confirmation of the residency within the limitation period, set by Article 46 of this Code;

2) make the valid decision to refuse to confirm the residency of a person.

A tax agent shall refuse to confirm the residency of a person in case of discrepancy of the person with the conditions, established by Article 189 of this Code.

4-1. A tax body, which handed the document, confirming the residency, shall hand a duplicate of the document within fifteen calendar days from the date of submission of the application of a resident in case of its loss.

5. If a resident believes that a taxation of income in a foreign state contradicts the provisions of the appropriate international agreement, he/she can apply to a competent body of the foreign state or an authorized body regardless of the protection, provided by internal legislation of the foreign state with an application on consideration of the issue on legality of application of the provisions of the international agreement in respect of taxation of his/her income.

**Footnote. Article 225 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467 -IV (shall be enforced from 01.01.2012).**

## **Article 226. The procedure of mutual agreement**

1. A resident or a citizen of the Republic of Kazakhstan shall have the right to apply to an authorized body with an application on conducting the mutual agreement procedure with a competent body of a foreign state, with which the Republic of Kazakhstan has an international agreement, for consideration of the application on the provisions of the international agreement, if he/she believes that the actions of one or both agreeing states lead and will lead to taxation which does not correspond with the provisions of this international agreement.

2. The application shall contain the circumstances, on which the requirements of a resident or a citizen of the Republic of Kazakhstan are based, and evidences, supporting these circumstances.

A resident or a citizen of the Republic of Kazakhstan shall be obliged to attach copies of the accounting documents, confirming the amounts of the received (receivable) income and (or) withheld taxes (in case of their withholding) in a foreign state, with which the Republic of Kazakhstan has an international agreement, as well as the notarized copies of the following documents to this application:

1) the contracts (agreements) on execution of works, provision of services or for other purposes;

2) for legal entities - the founding documents or an extract from the trade register with specification of the founders (participants) and majority of the shareholders of a resident legal entity;

3) the documents, specified in sub-paragraphs 1), 2) and 3) of paragraph 3 of Article 225 of this Code.

A resident or a citizen of the Republic of Kazakhstan shall have the right to submit other documents which are not specified in this paragraph and which are necessary to conduct the mutual agreement procedure.

3. An authorized body shall have the right to require in a written form a resident or a citizen of the Republic of Kazakhstan to submit additional documents, necessary to conduct the mutual agreement procedure.

4. The application shall be submitted by a resident or a citizen of the Republic of Kazakhstan before the expiry of the limitation period, set by Article 46 of this Code from the date of appearance of the tax obligation, which does not correspond with the provisions with an international agreement, in a foreign state, unless other deadlines are provided by the international agreement.

5. An authorized body shall send to a resident or a citizen of the Republic of Kazakhstan the written decision to refuse to consider an application by a registered letter within five working days from the date of submission of the application in the following cases:

1) submission of an application by a nonresident or a citizen of the Republic of Kazakhstan to perform the mutual agreement procedure with a competent body of the state, with which the Republic of Kazakhstan has an international agreement;

2) a resident or a citizen of the Republic of Kazakhstan submits an application after the deadline, established by paragraph 4 of this Article;

3) a resident or a citizen of the Republic of Kazakhstan submits the documents, provided by paragraph 2 of this Article.

In case that an authorized body refuses to consider an application on the ground, provided by sub-paragraph 3) of this paragraph, a resident or a citizen of the Republic of Kazakhstan shall have the right to re-apply within the deadline, set by paragraph 4 of this Article, if the resident or the citizen of the Republic of Kazakhstan eliminates the violations.

6. An authorized body shall consider an application of a resident or a citizen of the Republic of Kazakhstan within five calendar days from the date of receipt of this application, except for the cases, specified in paragraph 5 of this Article.

7. One of the following decisions shall be made upon the results of considering an application of a resident or a citizen of the Republic of Kazakhstan:

1) to refuse to perform the mutual agreement procedure;

2) to perform the mutual agreement procedure.

8. An authorized body shall make the decision to refuse to perform the mutual agreement procedure in the following cases:

1) discrepancy of the grounds, specified in an application of a resident or a citizen of the Republic of Kazakhstan with the provisions of an international agreement of the Republic of Kazakhstan;

2) submission of unreliable information by a resident or a citizen of the Republic of Kazakhstan;

3) a resident or a citizen of the Republic of Kazakhstan does not submit the documents, specified by paragraph 3 of this Article when considering an application.

The decision to refuse to perform the mutual agreement procedure shall be sent to a resident or a citizen of the Republic of Kazakhstan in a written form via a registered letter within two days from the date of the decision-making.

9. In case of making the decision to perform the mutual agreement procedure, an authorized body shall send a request to a competent body of a foreign state on performing this procedure.

10. An authorized body shall terminate the mutual agreement procedure with a competent body of a foreign state which was started on the basis of an application of a resident or a citizen of the Republic of Kazakhstan in the following case:

1) the resident or the citizen of the Republic of Kazakhstan submits an application on termination of the mutual agreement procedure;

2) the fact of provision of unreliable information by the resident or the citizen of the Republic of Kazakhstan was revealed when carrying out the mutual agreement procedure;

3) the resident or the citizen of the Republic of Kazakhstan submits the documents, specified by paragraph 3 of this Article when carrying out the mutual agreement procedure;

11. An authorized body shall send the information on the decision made upon the results of the mutual agreement procedure in a written form via a registered letter to a resident or a citizen of the Republic of Kazakhstan within seven days from the date of receipt of the final response on the issue of taxation of the income of this resident or citizen of the Republic of Kazakhstan from a competent body of a foreign state to the request of the authorized body.

12. A person shall have the right to apply to an authorized body with an application to carry out the mutual agreement procedure with a competent body of the foreign state, with which the Republic of Kazakhstan has an international agreement on the status of residence.

The application shall be submitted by this person to a tax body with attachment of the documents, specified in sub-paragraph 2) of paragraph 2 of this Article and sub-paragraph 1), 2) and 3) of paragraph 3 of Article 225 of this Code.

For the purposes of this paragraph, the order of carrying out the mutual agreement procedure, established by paragraphs 1 - 11 of this Code, shall be applied.

13. The decision, which was made upon the results of the mutual agreement procedure, performed on the basis of a request of a competent body of a foreign state, shall be sent by an authorized body in writing to a tax body, which sent one of the notifications, specified in sub-paragraphs 2) and 8) of paragraph 2 of Article of Article 607 of this Code, in connection with which a resident of the specified state initiated this procedure, to a taxpayer.

The decision made upon the results of the mutual agreement procedure in the order, established by this Article, shall be obligatory performed by the tax bodies.

**Footnote. Article 226 is in the wording of the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 227. Assistance in tax collection**

1. For the purposes of fulfillment of the unfulfilled tax obligation, an authorized body shall have the right in accordance with the provisions of an international agreement to request assistance of a competent body of a foreign state by sending a tax request in the form, established by the authorized body. The tax request shall be sent to a competent body of a foreign state in case that a nonresident does not fulfill or incompletely fulfills the tax obligation from the income from the sources in the Republic of Kazakhstan and from income of a permanent establishment of the nonresident from the sources outside the Republic of Kazakhstan only after application of all possible measures of obligatory levy, established by this Code.

2. An authorized body shall have the right to fulfill the tax obligation of a resident, appeared in a foreign state when receiving a request on assistance from a competent body of the foreign state. At that, the authorized body shall consider legality of payment of taxes from income of a resident from the sources in a foreign state in accordance with the provisions of an international agreement and shall make the conclusion.

3. In case of the positive conclusion on a request of a competent body of a foreign state, an authorized body shall fulfill the tax obligations by a resident in accordance with the provisions of an international agreement in the order, established by this Code. The amount of the tax shall be transferred by the resident taxpayer on the request of the authorized body on an account of the competent body of the foreign state, specified in the request on assistance in the tax collection, sent according to the provisions of the international agreement.

4. An authorized body shall consider the requests of a competent body of a foreign state on principles of reciprocity.



5. The provisions of this Article shall be applied before the expiry of the limitation period, established by Article 46 of this Code, unless otherwise provided by an international agreement.

**Article 227-1. The order of refund of the income tax, withheld at the source of payment from the income of a resident in the form of dividends on shares, which are the underlying asset of depository receipts**

1. A tax agent shall have the right to exempt or apply the rate of the income tax, provided by this Code for residents when paying income in the form of dividends on shares, which are the underlying asset of depository receipts, to the final (actual) recipient (owner) of the income - to a resident through a nominal holder of depository receipts under simultaneous fulfillment of the following conditions:

1) presence of the list of holders of the depository receipts, containing:

last names, names, patronymics (if there are ones) of individuals or the names of legal entities, which are the owners of the depository receipts, the underlying asset of which are the shares issued by a resident of the Republic of Kazakhstan;

the information on the number and the of the depository receipts;

the names and accessories of the documents, certifying identities of the individuals or numbers and dates of the state registration of the legal entities.

The list of holders of the depository receipts shall be composed by the following persons:

an organization which has the right to perform the depository activities in the securities market of the Republic of Kazakhstan in case, if an agreement on implementation of accounting and confirmation of the ownership rights for depository receipts is concluded between a resident - issuer of a share, which is the underlying asset of the depository receipts, and this organization;

or another organization which has the right to perform the depository activities in the securities market of a foreign state in case, if an agreement on implementation of accounting and confirmation of the ownership rights for depository receipts is concluded between a resident - issuer of a share, which is the underlying asset of the depository receipts, and this organization;

2) a certificate of a taxpayer of the Republic of Kazakhstan of a person - the final (actual) recipient (owner) of the dividends on shares which are the underlying asset of depository receipts.

At that, a certificate of a taxpayer of the Republic of Kazakhstan shall be submitted to a tax agent no later than one of the dates, specified in paragraph 3 of Article 212 of this Code which comes last.



2. A tax body shall be obliged to specify the amounts of accrued (paid) income and withheld, exempted from withholding taxes in accordance with this Code, the rates of the income tax in the tax reporting which is submitted to a tax body.

At that, a tax agent shall be obliged to submit a notarized copy of a certificate of a resident taxpayer of the Republic of Kazakhstan to a tax body at the location of the taxpayer. The copy of this document shall be submitted within three calendar days from the date of submission of this tax reporting, the deadline for submission of which comes after the submission of this document to a tax agent by the resident on one of the dates, specified in paragraph 3 of Article 212 of this Code.

3. In case that a tax agent does not apply the provisions of this Code when paying the income in the form of dividends on shares, which are the underlying asset of depository receipts, to a resident in the order, established by paragraph 1 of this Article, the tax agent shall withhold the income tax at the source of payment at the rate, established by Article 194 of this Code.

The amount of the withheld income tax shall be transferable within the deadline, set by sub-paragraph 1) of paragraph 1 of Article 195 of this Code.

4. The final (actual) recipient of the income - resident shall have the right to refund the overly withheld income tax at the source of payment in accordance with this Code in case if a tax agent transfers the income tax, withheld at the source of payment to the budget.

At that, the resident shall be obliged to submit a notarized copy of the following documents to a tax agent:

1) the document, confirming the ownership right for the shares which are the underlying asset of the depository receipts;

2) a certificate of a taxpayer of the Republic of Kazakhstan for the period, in which the income in the form of dividends was received.

The documents, specified in this paragraph shall be submitted by a resident before the expiry of the limitation period, set by Article 46 of this Code from the date of the last transfer of the income tax, withheld at the source of payment to the budget.

At that, refund of the overly withheld income tax to a resident shall be performed by a tax agent.

5. A tax agent shall have the right to submit the additional calculation of the income tax, withheld at the source of payment on the amount of decrease to a tax body at its location when applying the tax rate, defined for residents or exemption from taxation for the tax period, in which withholding and transfer of the income tax from income of the resident in the form of dividends on shares, which are the underlying asset of depository receipts, were performed.

In the specified case, the set-off of the overpaid amount of the income tax, withheld at the source of income shall be performed to a tax agent in the order, specified by Article 599 of this Code.

**Footnote.** The Chapter 27 is supplemented with Article 227-1 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

## **SECTION 8. VALUE-ADDED TAX**

### **Chapter 28. BASIC PROVISIONS**

#### **Article 228. Payers**

1. Payers of the value-added tax are:

1) the persons, on whom the registration for the value added tax in the Republic of Kazakhstan was performed:

the individual entrepreneurs;

the resident legal entities, except for the government bodies;

the nonresidents working in the Republic of Kazakhstan through an affiliate, representative office;

the trust managers who perform turnover for realization of goods, services on contracts on trust management with founders of the trust management or beneficiary in other cases of the trust management;

2) The persons who import goods to the Republic of Kazakhstan in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan.

2. The registration for the value-added tax shall be performed in accordance with Articles 568, 569 of this Code. Z080000100

**Footnote.** Article 228 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).

#### **Article 229. Taxation objects**

Objects of taxation by the value-added tax are:

1) the taxable turnover;

2) the taxable import.

### **Chapter 29. THE TAXABLE TURNOVER**

#### **Article 230. Determination of the taxable turnover**

1. The taxable turnover is a turnover, performed by a payer of the value-added tax:

1) on realization of goods, works, services in the Republic of Kazakhstan, except for the nontaxable turnover, specified by Article 232 of this Code.

2) on the purchase of works, services from a nonresident who is not a payer of the value-added tax in the Republic of Kazakhstan and who does not perform the activity through an affiliate, representative office.

2. The remains of the goods (including those on the basic means, intangible and biological assets, investments in real estate), for which the value-added tax was attributed to the set-off in accordance with Article 256 of this Code when removing a person from the registration for the value-added tax, are the taxable turnover.

The provisions of this paragraph shall not be applied when removing a person from the registration for the value-added tax in connection with its reorganization when fulfilling the condition that all newly created, in the result of merger of a legal entity, legal entities or a legal entity, to which other legal entity (legal entities) are joined, are payers of the value-added tax after reorganization.

**Footnote. Article 230 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2011).**

#### **Article 231. Turnover for realization of goods, works, services**

1. Turnover for realization of goods is:

1) the transfer of the ownership rights for property, including:  
sale of goods;  
sale of a whole enterprise as the property complex;  
shipping of goods, including exchange for other goods, works, services;  
gratuitous transfer of goods;  
transfer of goods by an employer to an employee on account of salaries;  
transfer of the pledged property (goods) by a pledger in case of nonpayment of the debt;

1-1) The export of goods

2) shipping of goods on conditions of the deferred payment;

3) transfer of property to the financial leasing;

4) shipping of goods under a commission agreement;

5) *excluded by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009);*

6) the return of goods in the customs procedure of re-import previously taken out in the customs procedure of export.

2) Turnover on realization of works, services shall mean another execution of works or provision of services, and any other activity for a remuneration which is different from realization of goods, including:

- 1) provision of property to temporary ownership and use under the contracts of property lease;
  - 2) provision of the rights for objects of intellectual property;
  - 3) execution of works, provision of services by an employer to an employee on the account of salaries;
  - 4) concession of the rights of claim related to realization of goods, works, services, except for advances and penalties;
  - 5) an agreement to limit or terminate entrepreneurial activity;
  - 6) provision of a credit (loan, micro-credit).
- 3) The following are not the turnover on realization:
- 1) transfer of property as a contribution to the authorized capital;
  - 2) return of property, received as a contribution to the authorized capital;
  - 3) gratuitous transfer or gift of goods for advertising purposes, the unit cost of which does not exceed 2-fold of the monthly calculation index, established by the Law on the Republican Budget and operating on the date of the transfer or the gift of goods;
  - 4) shipping of tolling goods by a customer to a contractor for production, processing, assembly (mounting, installation), reparation of the finished goods and (or) construction of objects by the latter. In case of production, processing, assembly, reparation outside the Customs Union, shipping of the specified goods shall not be the turnover on realization, if their export was performed in the customs procedure of processing outside the Customs Union in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan;
  - 5) shipping of returnable containers. Returnable containers are the containers, the cost of which shall not be included in the cost of realization of the supplied products and which is returnable to a supplier on the conditions and within the period, established by a contract (agreement) on supply of this production but not more than the period, duration of which is six months. If the containers were not returned to the authorized capital within the established period, the cost of these containers shall be included in the turnover on realization;
  - 6) the return of goods, except for the return of goods in the customs procedure of re-import, previously taken in the customs procedure of export;
  - 7) the export of goods outside the Customs Union for holding exhibitions, other cultural and sports events, which are subjected to re-import on the conditions and within the periods, established by a contract, if this export was formalized in the customs procedure of temporary export in accordance with the tax legislation of the Customs union and (or) the tax legislation of the Republic of Kazakhstan;
  - 8) transfer of the property, newly created and (or) purchased by a subsoil user, which is used to conduct mining operations and which is subjected to transfer to the

Republic of Kazakhstan in accordance with the conditions of a concluded contract on subsoil user by the subsoil user;

9) placement of the issued securities by an issuer;

10) transfer of the basic means, intangible and biological assets and other property of a legal entity undergoing reorganization to its legal successor (legal successors);

11) transfer of an object of concession to a concedent, and further transfer of an object of concession to a concessionaire (a legal successor or a legal entity specially solely created by the concessionaire for realization of the concession contract) for exploitation under the concession contract;

12) the turnover on realization of the personal property of an individual, if this property is not used by this person for the purposes of entrepreneurial activities;

13) transfer of property by a founder of an entrusted administration to an entrusted administrator under a contract on the entrusted administration of property or beneficiary in other cases of entrusted administration;

14) return of the property by an entrusted administrator during termination of the document, which is the basis for creation of the entrusted administration;

15) transfer of net income by an entrusted administrator from an entrusted administration to a founder of the entrusted administration under a contract on entrusted administration of property or beneficiary in other cases of the entrusted administration;

16) receipt of the amount of remuneration by a depositor (client), calculated and (or ) paid to him/her under the contracts of bank account and (or) bank deposit.

**Footnote. Article 231 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (see the order of enforcement in Article 2); dated 30.06.2010 No. 297-IV (see the order of enforcement in Article 2); dated 21.07.2011 No. 467-IV ( shall be enforced from 01.01.2012).**

## **Article 232. Nontaxable turnover**

Nontaxable turnover is the turnover on realization of goods, works, services:

1. except from the value-added tax in accordance with this Code;
2. a place of realization of which is not the Republic of Kazakhstan.

Unless otherwise provided for by this Article, a place of realization of goods, works, services shall be determined in accordance with Article 236 of this Code.

A place of realization of goods, works, and services in the Customs Union shall be determined in accordance with Article 276-5 of this Code.

**Footnote. Article 232 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

## **Article 233. Turnovers on realization (purchase), performed under the agency agreements**

1. Realization of goods, execution of works or provision of services, and purchase of goods, works and services by an attorney on behalf and at the expense of a grantor, shall not be the turnover on realization (purchase) of the attorney.

2. The provisions of paragraph 1 of this Article shall be not applied to:

1) excluded by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2011);

2) realization of the goods, received from a nonresident grantor, who is not a payer of the value-added tax in the Republic of Kazakhstan and who does not work through an affiliate, representative office. In this case, shipping of goods shall not be the turnover on realization of an attorney;

3) realization of the goods, execution of works, provision of services, and purchase of goods, works and services by an operator in the cases, specified by paragraph 3 of Article 271-1 of this Code.

**Footnote. Article 233 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (see the order of enforcement in Article 2).**

#### **Article 233-1. Turnovers on realization, performed on the conditions, corresponding with the conditions of a commission agreement**

1. realization of the goods, execution of works, provision of services on the conditions, meeting the requirements of the commission agreement, shall not be the turnover on realization of a broker.

2. The provisions of paragraph 1 of this Article shall not be applied to realization of goods, received from a nonresident grantor, who is not a payer of the value-added tax in the Republic of Kazakhstan and who does not work through an affiliate, representative office. In this case, realization of goods shall be the turnover on realization of a broker.

**Footnote. The Code is supplemented with Article 233-1 in accordance with the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2011).**

#### **Article 234. Turnovers on realization (purchase), performed under the contracts of trust management**

Realization of goods, execution of works, provision of services, purchase of goods, works, services, performed by an entrusted administrator under a contract on entrusted administration or other document which is the ground for appearance of an entrusted administration, shall be the turnover on realization (purchase) of the entrusted administrator.

Footnote. Article 234 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2011).

**Article 235. Turnovers on realization (purchase), performed under the agreements on joint activity**

1. In cases, if realization of goods, works and services is performed by an attorney on behalf and (or) on the instructions of a participant (participants) of an agreement on joint activity:

1) an invoice is issued on behalf of one of the participants of the agreement on joint activity or on behalf of the attorney with specification of the details of the agreement's participant (participants) on joint activity in the line, assigned for a supplier (seller);

2) the total amount of a turnover and the amount of the turnover per each participant in accordance with the conditions of the agreement on joint activity when issuing invoices shall be reflected.

2. The original of an invoice shall be issued to a buyer of goods, works and services as well as to each participant of an agreement on joint activity.

3. In case if a participant (participants) of an agreement on joint activity or an attorney buys goods, works or services within this activity, the invoices, received from a supplier (seller) shall mark out:

1) the details of the participant (participants) of an agreement on joint activity according to the number of participants of the joint activity or the attorney;

2) the amounts of purchase, including the amount of the value-added tax, per each participant of an agreement on joint activity.

4. The number of the issued originals of invoices in these cases shall correspond with the number of participants of an agreement on joint activity, for which the goods, works, services are purchased.

5. The provisions of this Article shall not be applied in realizing (purchasing) goods, works, services by an operator in the cases, specified by paragraph 3 of Article 271-1 of this Code.

Footnote. Article 235 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2009).

**Article 236. A place of realization of goods, works, services**

1. A place of realization of goods is a place of:

1) the beginning of goods transportation, if goods are transferred (sent) by a supplier, recipient or a third person;

2) in other cases - a place of transfer of goods to a buyer.

2. A place of realization of works, services is a place of:

1) location of a real estate, if works, services are directly connected with this property.

A location of a real estate is a place of the state registration of the rights for the real estate or an actual location - in case of absence of the obligation for the state registration of this property.

For the purposes of this Article, a real estate is the buildings, constructions, perennial plants and other property, closely linked to land, i.e. objects, moving of which is impossible without disproportionate damage to their purpose, and pipelines, power lines, space objects, an enterprise as the property complex. At that, for the purposes of this Article, property which is not attributed to real estate in this sub-paragraph shall be recognized as movables;

2) actual execution of works, services, unless they are not connected with movables

These works shall include: mounting, assembly, repair, maintenance;

3) actual provision of services, if these services are related to services in the sphere of culture, entertainment, science, education, physical culture or sports.

For the purposes of this sub paragraph, entertainment services shall include the services of entertainment and leisure purpose, provided in entertainment venues (casinos, night clubs, cafes, bars, restaurants, internet cafes, computer, billiard, bowling clubs and cinema theaters, and other buildings, premises, facilities);

4) conduction of the entrepreneurship activities or any other activity of a buyer of works, services.

Unless otherwise provided by this sub-paragraph, a place of conducting the entrepreneurship activities or other activity of a buyer of works, services, shall be the territory of the Republic of Kazakhstan in the presence of the buyer of works, services in the territory of the Republic of Kazakhstan on the basis of the state registration in judicial bodies or on the basis of the registration in the tax bodies as an individual entrepreneur.

In case, if a buyer of works, services is a nonresident and a recipient is its affiliate or a representative office, the state registration of which was performed in judicial bodies of the Republic of Kazakhstan, the Republic of Kazakhstan shall be the place of realization.

The provisions of this sub-paragraph shall be applied to the following works, services:

transfer of the rights to use objects of intellectual property;

consulting, auditing, engineering, design, marketing, legal, accounting, law, advertising services, and services for provision and (or) processing of the information,



except for distribution of products of mass media and granting the access to the mass information, placed on an internet resource;

provision of personnel;

leasing of movables (except for vehicles);

services of an agent for purchasing goods, works, services, and engaging persons for provision of the services, provided, by this sub-paragraph on behalf of the main participant of an agreement (contract);

communication services;

an agreement to limit or to terminate the entrepreneurial activity for a remuneration

;

radio and television services;

services for organization of tourism;

services for provision of leasing and (or) use of freight wagons and containers;

5) conducting the entrepreneurial or any other activity of a person, who executes works, provides services which are not provided by sub-paragraphs 1) - 4) of this paragraph and paragraph 4 of this Article.

A place of conducting the entrepreneurial activity or other activity of a person, who performs works, provides services which are not provided by paragraphs 1) - 4) of this paragraph shall be the Republic of Kazakhstan in the presence of this person in the territory of the Republic of Kazakhstan on the basis of the state registration in judicial bodies or on the basis of the registration in the tax bodies as an individual entrepreneur.

3. If realization of goods, works, and services is auxiliary towards realization of other basic goods, works, services, a place of this auxiliary realization shall be the place of realization of basic goods, works, and services.

4. A place of realization of works, services shall not be the Republic of Kazakhstan when providing services for transportation of passengers and luggage, transportation of goods, including mail, under simultaneous compliance with the following conditions:

the passengers, the transported goods (mail, luggage) shall not be imported into the territory of the Republic of Kazakhstan;

the passengers, the transported goods (mail, luggage) shall not be exported outside the territory of the Republic of Kazakhstan;

the passengers shall not be transported, the goods (mail, luggage) shall not be transported through the territory of the Republic of Kazakhstan.

5. A place of execution of works or provision of services, specified in more than one sub paragraph shall be determined by the first in the order out of these sub-paragraphs when applying paragraph 2 of this Article.

**Footnote. Article 236 as amended by the Laws of the Republic of Kazakhstan dated 10.07.2009 No. 178-IV; dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2011).**

## **Article 237. The date of performing the turnover on realization**

1. Unless otherwise provided by this Article, the date of performing the turnover on realization of goods is:

the date of transfer of goods in accordance with the conditions of an agreement in its location to a buyer or a person, determined by him/her, who delivers the goods, or his/her trustee, if the goods must be transferred to the location;

the date of transfer of goods to a buyer or his/her trustee in the place, specified by the conditions of an agreement, unless a seller's obligation to deliver goods to a buyer's location is not provided for.

The date of the turnover on realization of works, services is the date of execution of works, provision of services.

At that, the date of execution of works, provision of services shall be the date of execution of works, provision of services, specified in a signed:

document (except for invoices), conforming the fact of execution of works, provision of services and which is formalized in accordance with the legislation of the Republic of Kazakhstan on accounting and financial reporting and (or) the legislation of the Republic of Kazakhstan on transport and (or) agreements (contracts) in the sphere of cooperation of railways when transporting cargoes by railway transport, signed between the Republic of Kazakhstan and other states.

1-1. The date of execution of works, provision of services shall be the earliest date when having more than one date of execution of works, provision of services in the documents, specified in the second, third sub-paragraph of the third part of paragraph 1 of this Article.

In case the documents, specified in the second, third sub-paragraph of the third part of paragraph 1 of this Article do not specify the date of execution of works, provision of services, the date of execution of works, provision of services shall be the date of formalizing the documents, specified in the second, third sub-paragraphs of the third part of paragraph 1 of this Article.

2. In case shipping of goods is not performed, the date of the turnover on realization shall be the date of transfer of the ownership right for the goods to a recipient.

3. In case of taking out of goods in the customs procedure of export, the date of the turnover on realization of goods shall be:

1) the date of actual crossing the border of the Customs Union at a checkpoint, determined in accordance with the tax legislation of the Customs Union and (or) the tax legislation of the Republic of Kazakhstan;

2) the date of customs declaring the full customs declaration with the marks of a tax body, which performed the customs declaring in the following cases:

in case of taking out of goods in the customs procedure of export with application of the periodic customs declaring procedure;

in case of taking out of goods in the customs procedure of export with application of the temporary customs declaring procedure.

3-1. In case of taking out of goods in the re-import regime, which were previously taken out in the regime of export, the date of the turnover on realization of goods shall be:

1) the date of actual crossing of the customs border of the Republic of Kazakhstan in a checkpoint when taking out goods in the export regime without application of the procedure of the periodical or the temporary declaring, which is determined in accordance with the tax legislation of the Republic of Kazakhstan;

2) the date of formalization of the full cargo customs declaration with the Footnotes of a tax body, which performed the tax formalization when taking out goods in the export regime with application of the periodical or the temporary declaring procedure.

4. The date of the turnover on realization for a pledger shall be the one of the following dates, which leads to the following when transferring the pledged property (goods):

1) the date of transfer of the ownership right for the subject of pledge from the pledger to a winner of the auction, held in the process of foreclosure on the pledged property;

2) the date of transfer of the ownership right for the subject of pledge from the pledger to a pledge, if the trading was declared invalid.

5. The date of the turnover on realization on the taxable turnover, specified in paragraph 2 of Article 230 of this Code when removing from the registration for the value-added tax shall be:

1) the date when a payer of the value-added tax submitted a tax application on removal from the registration for the value-added tax or the tax application, specified in Articles 37 - 43 of this Code;

2) the date specified in paragraph 6 of Article 571 of this Code when removing from the registration for the value-added tax under the decision of a tax body.

6. The date of the turnover when a lessor transfers property which is receivable by a lessee as the basic means, investments in real estate, biological assets to the financial leasing, except for the transfer under a contract of leaseback, shall be:

1) the maturity date of receiving a periodical leasing payment by a lessor, established by a contract on financial leasing, except for the cases, specified in sub-paragraph 2) and 3) of this paragraph;

2) in case, if the maturity date of receiving a periodical leasing payment by a lessor is established before the date of transfer of the property to a lessee under a contract on

financial leasing, the date of the turnover shall be the date of the property transfer to the financial leasing;

3) the date of the final payment shall be the last date of the turnover on realization under a contract on financial leasing when a lessor early repays the leasing payments, provided by this contract on financial leasing.

7. The date of the turnover on realization when a lessor transfers property which is receivable by a lessee (seller) as the basic means, investments in real estate, biological assets under a contract of leaseback of property, shall be the date of the property transfer to the financial leasing.

8. The date of the turnover on realization when there are no documents, specified in the second, third sub-paragraph of the third part of paragraph 1 of this Article within a calendar year, shall be the date which comes first:

1) the date of issuing an invoice with the value-added tax;

2) the date of receiving of each payment (regardless of the form of payment).

9. In case of purchase of works, services from a nonresident who is not a payer of the value-added tax in the Republic of Kazakhstan and who works through an affiliate, representative office, the date of the turnover on purchase shall be the date of execution of works, provision of services, specified in a signed:

act of executed works, provided services;

document, confirming the fact of execution of works, provision of services, which is certified in accordance with the legislation of the Republic of Kazakhstan on accounting and financial reporting and (or) the legislation of the Republic of Kazakhstan on transport and (or) contracts (agreements) in cooperation of railways when transporting cargoes by railway transport, signed between the Republic of Kazakhstan and other states.

In case if the documents in the second, third sub-paragraphs of the first part of this paragraph do not specify the date of execution of works, provision of services, the date of execution of works, provision of services shall be the date of formalization of the documents, specified in the second, third sub-paragraphs of the first part of this paragraph.

When there is more than one date of execution of works, provision of services in the documents, specified in the second, third sub-paragraphs of the first part of this paragraph, the date of execution of works, provision of services shall be the earliest date.

Footnote. Article 237 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 09.01.2012 No. 535-IV (shall be enforced from 01.01.2012).

## **Chapter 30. DETERMINATION OF THE AMOUNT OF THE TAXABLE TURNOVER**

### **Article 238. The amount of the taxable turnover**

1. The amount of the taxable turnover shall be determined on the basis of the cost of the realized goods, works, services on the basis of the prices and tariffs applied by parties of a transaction without including the value-added tax in them, unless otherwise provided by this Article and the legislation of the Republic of Kazakhstan on transfer pricing.

2. The amount of the taxable turnover shall be determined on the basis of the price level as of the date of the turnover on realization without including the value-added tax in them but no lower than the balance cost of gratuitously transferring goods and in the cases, specified by paragraph 2 of Article 230 of this Code.

For the purposes of this paragraph, the balance cost is the cost of the goods reflected in the accounting on the date of their realization.

3. In concession of the rights of claim for the realized goods, works, services, which are taxable by the value-added tax, except for advances and penalties, the amount of the taxable turnover shall be determined as the positive disparity between the cost of the right of claim, on which a concession was made, and the cost of the claim, which shall be received from a debtor on the date of the concession of the right of claim, according to the primary documents of a taxpayer.

3-1. In the cases, specified by sub-paragraph 5) and 6) of paragraph 2 of Article 231 of this Code, the amount of the taxable turnover shall be determined on the basis of a remuneration.

4. The amount of the taxable turnover from a lessor shall be determined on the basis of the cost of the realized pledge property (goods) but not lower than the amount of borrowings which are received against collateral of this property (goods) without including the value-added tax in them in transferring the pledge property (goods) by the lessor.

5. The amount of the taxable turnover shall be determined in accordance with paragraph 1 of this Article, taking into account all the due payments, provided by the conditions of a contract when realizing goods on the conditions of an installment payment.

6. The amount of the taxable turnover shall include the commissions when providing services, related to prepay for third parties.

7. Unless otherwise provided by this paragraph, the amount of the taxable turnover shall include the amount of the excise duty on excisable goods.

The amount of the taxable turnover shall not include the amount of an excise under simultaneous observance of the following conditions:

1) the goods shall be the product of processing, specified in sub-paragraph 5) of Article 279 of this Code made of crude oil transferred to a processor on a give-and-take basis;

2) payment of the amount of the excise shall be performed by a person who produced the excisable goods, specified in sub-paragraph 5) of Article 279 of this Code from the crude oil, transferred on a give-and-take basis.

8. The amount of the taxable turnover shall be determined as the positive disparity between the cost of realization of the balance cost of goods, determined in accordance with paragraph 2 of this Article when realizing goods, on which the value-added tax specified in invoices issued when purchasing these goods, shall not be attributed to the set-off in accordance with the legislation of the Republic of Kazakhstan, operating on the date of their purchase.

9. The turnover on realization shall be determined as the increase of value when realizing lands in the order, specified by Article 87 of this Code when transferring the right of ownership and (or) use and (or) disposal of a land, purchased without the value-added tax.

10. When transferring property to the financial leasing which shall be received by a lessee in the form of the basic means, investments in real estate, biological assets, except for the transfer under a contract of leaseback, the amount of the taxable turnover shall be determined:

1) on the date of the turnover, specified in sub paragraph 1) of paragraph 6 of Article 237 of this Code on the basis of the amount of the leasing payment, established in accordance with the contract on financial leasing without including the amount of a remuneration and the value-added tax in it;

2) on the date of the turnover, specified in sub paragraph 2) of paragraph 6 of Article 237 of this Code on the basis of the amount of all the periodic leasing payments without including the amounts of a remuneration and the value added tax in them, the maturity date of receipt of which in accordance with the contract on financial leasing shall be established before the date of the property transfer to a lessee;

3) on the date of the turnover, specified in sub paragraph 3) of paragraph 6 of Article 237 of this Code as the disparity between the total amount of all leasing payments which are receivable under the contract on financial leasing without including the amount of a remuneration and the value added tax in them and the amount of the taxable turnover which is determined as the amount of taxable turnovers, attributable to the previous date of the turnover on realization in accordance with this contract.

11. The amount of the turnover shall be determined in accordance with paragraph 1 of this Article when transferring property under a contract of leaseback which is

receivable by a lessee (seller) in the form of the basic means, investments in real estate, biological assets.

12. The amount of the taxable turnover from a forwarder shall be determined on the basis of his/her remuneration when providing services under a contract of freight forwarding.

13. When selling the whole enterprise as the property complex, the amount of the taxable turnover shall be determined in the basis of the balance cost of property, transferred when selling an enterprise as the property complex, on which the value-added tax was previously set off:

1) increased by the positive disparity between the cost of realization under a contract of purchase (of sale) of the enterprise and the balance cost of the transferred assets, reduced by the balance cost of the transferred obligations upon the data of the accounting on the date of realization;

2) reduced by the negative disparity between the cost of realization under a contract of purchase (of sale) of the enterprise and the balance cost of the transferred assets, reduced by the balance cost of the transferred obligations upon the data of the accounting on the date of realization.

14. The amount of the taxable turnover of an attorney shall be determined on the basis of his/her remuneration when realizing goods, executing works, providing services by the attorney on behalf and at the expense of a grantor.

15. The amount of the taxable turnover of a broker shall be determined on the basis of his/her commission when realizing goods, executing works, providing services on the conditions, meeting the requirements of a commission contract.

16. The amount of the taxable turnover shall be determined on the basis of the cost attributable to the realized periodical publications and other media products in the reporting tax period, when realizing, including those placed on the internet site in public telecommunication networks.

17. In case of inobservance of the requirements, established by Article 78 of this Code, the amount of the exempted turnover when transferring property to the financial leasing, shall be recognized as taxable from the date of the turnover, specified in paragraph 6 of Article 237 of this Code.

18. The amount of the taxable turnover of a taxpayer, who previously took out goods in the export regime, when bringing in goods in the re-import regime, shall be determined proportionally to the volume of the imported goods in units of measure which are applied when formalizing export on the basis of the cost of these goods, on which the turnover on realization of goods for export was reflected in the declaration of the value-added tax.

19. For the purposes of this part, an operation in a foreign currency shall be converted to the national currency of the Republic of Kazakhstan - tenge with application of the market exchange rate on the date of turnover.

20. Unless otherwise provided by this Code, the provisions of this part on determination of the amount of the taxable turnover (including its adjustment) shall also be applied when determining the amount of the nontaxable turnover.

**Footnote. Article 238 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

### **Article 239. Adjustment of the amount of the taxable turnover**

1. In case if the cost of the realized goods, works, services is changed in either direction, the amount of the taxable turnover shall be adjusted in the appropriate manner.

2. Adjustment of the amount of the taxable turnover from a taxpayer shall be performed in the cases:

1) of full or partial return of goods, except for bringing in goods in the re-import regime, previously taken out in the regime of export;

2) of changes in the conditions of a transaction;

3) of changes in price, compensation for the realized goods, works and services;

4) of mark downs, discounts on sales;

5) of receiving the difference in the cost of goods and services when they are paid in the national currency;

6) of return of containers, included in the turnover on realization in accordance with sub paragraph 5) of paragraph 3 of Article 231 of this Code.

3. In accordance with this Article, adjustments of the amount of the taxable turnover shall be made when simultaneously observing the following conditions:

1) presence of the documents which are the basis for adjustments in the cases, specified in paragraph 2 of this Article;

2) presence of an additional invoice which contains the negative (positive) value on the taxable turnover and the value-added tax.

Adjustment of the amount of the taxable turnover towards reduction shall not exceed the amount of the previously reflected taxable turnover on realization of these goods, execution of these works, and provision of these services.

4. Adjustment of the amount of the taxable turnover in accordance with this Article shall be performed in the tax period, in which the cases, specified in paragraph 2 of this Article occurred.



The amount of adjustment of the value-added tax in accordance with this Article shall be determined at the rate which operates on the date of the turnover on realization

Footnote. Article 239 as amended by the Laws of the Republic of Kazakhstan dated 04.07.2009 No. 167-IV (shall be enforced from 01.01.2009); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009).

#### **Article 240. Adjustment of the amount of the taxable turnover on doubtful claims**

1. If a part or a whole amount of claim for the realized goods, works, services is a doubtful claim, a payer of the value-added tax shall have the right to reduce the amount of the taxable turnover on this request in the following cases:

1) after three years from the beginning of a tax period, in which the value-added tax was accounted, related to appearance of the doubtful claims;

2) in the tax period, in which the decision of judicial bodies to exclude a debtor, recognized as bankrupt from the State Register of Legal Entities, was made.

Adjustment of the amount of the taxable turnover in accordance with this paragraph shall be performed when observing the conditions, specified in Article 105 of this Code

2. Reduction of the amount of the taxable turnover on a doubtful claim shall be performed within the amount of the previously reflected taxable turnover on realization of goods, execution of works, and provision of services with application of the rate on the value-added tax which operates on the date of the turnover on realization.

3. In case of receiving payment for the realized goods, works, services after a payer of the value added tax used the right provided to him/her in accordance with paragraph 1 of this Article, the amount of the taxable turnover shall be subjected to increase by the cost of the specified payment in the tax period, in which the payment was received.

Footnote. Article 240 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

#### **Article 241. The taxable turnover when purchasing works, services from a nonresident who is not a payer of the value-added tax in the republic of Kazakhstan and who does not work through an affiliate, representative office**

1. Works, services provided by a nonresident who is not a payer of the value-added tax in the Republic of Kazakhstan and who does not work through an affiliate, representative office shall be the turnover of a taxpayer of the Republic of Kazakhstan who receives works, services or a place of their realization is the Republic of Kazakhstan and they shall be taxable by the value-added tax in accordance with this Code.

2. For the purposes of this Article, the amount of the taxable turnover from a recipient of works, services shall be determined on the basis of the cost of the purchased works, services, specified in paragraph 1 of this Article, including taxes, except for the value-added tax.

3. The amount of the value-added tax, payable in accordance with this Article, shall be determined by applying the rate, established by paragraph 1 of Article 268 of this Code to the amount of the taxable turnover. In case, when payment for received works, services is made in a foreign currency, the taxable turnover shall be converted to tenge at the market exchange rate on the date of the turnover.

4. The amount of the value-added tax, calculated in accordance with paragraph 3 of this Article shall be paid no later than the deadline for submission of the declaration for the value-added tax, established by Article 270 of this Code.

5. A payment document or a document, issued by a tax body in the form, established by an authorized body which confirms payment of the value-added tax in accordance with this Article, shall give the right for the set-off of the amount of the tax in accordance with Article 256 of this Code.

6. The provisions of this Article shall not be applied, if:

1) the provided works, services are the works, services, listed in Article 248 of this Code;

2) the cost of the works, services, specified in paragraph 1 of this Article is included in the customs cost of the imported goods which is determined in accordance with the customs legislation of the Republic of Kazakhstan, on which the value-added tax for the imported goods was paid to the budget of the Republic of Kazakhstan and shall not be returned in accordance with the tax legislation of the Republic of Kazakhstan.

3) the works and services are provided:

to the autonomous education organizations, specified in sub-paragraphs 2) and 3) of paragraph 1 of Article 135-1 of this Code;

to the autonomous education organizations, specified in sub-paragraphs 4) and 5) of paragraph 1 of Article 135-1 of this Code on the basis of activity, determined by sub-paragraphs 4) and 5) of paragraph 1 of Article 135-1 of this Code.

**Footnote. Article 241 as amended by the Laws of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 19.01.2011 No. 395-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

## **Chapter 31. TURNOVERS TAXABLE AT THE ZERO RATE**

### **Article 242. Export of goods**

The turnover on realization of goods on export shall be taxable at the zero rate.

Export of goods shall be the taking out of goods from the customs territory of the Customs Union, performed in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan.

**Footnote. Article 242 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

#### **Article 243. Confirmation of export of goods**

1. The documents confirming export of goods are:

1) an agreement (contract) on supply of the exported goods;  
2) a copy of the declaration on goods with marks of a tax body, which performs production of goods in the customs procedure of export and with a mark of a tax body, located in a checkpoint on the customs border of the Customs Union, except for the cases, specified in sub-paragraph 3) of this Article;

3) a copy of the full declaration on goods with marks of a tax body which performed the tax declaring in the following cases:

when taking out goods in the customs procedure of export by a system of pipelines or power transmission lines;

when taking out goods in the customs procedure of export with application of the procedure of the periodical customs declaring;

when taking out goods in the customs procedure of export with application of the procedure of the temporary customs declaring;

4) the copies of shipping documents.

In case of taking out goods in the tax procedure of export by a system of pipelines or by power transmission lines, the delivery and acceptance of the goods' certificate shall be submitted instead of the copies of the shipment documents;

5) confirmation of an authorized government body in protection of intellectual property rights on the rights for an object of intellectual property and its cost - in case of export of the object of intellectual property.

2. In case of performing further export of goods which were previously taken out outside the territory of the Customs Union in the customs procedure of processing outside the customs territory or products of their processing, confirmation of export shall be performed in accordance with paragraph 1 of this Article and on the basis of the following documents:

1) a copy of the goods declaration, in accordance with which a change in the customs procedure of processing outside the customs territory to the customs procedure of export was made;

2) a copy of the goods declaration, formalized in the tax procedure of processing outside the customs territory;

3) a copy of the goods declaration, formalized when importing the goods to the territory of a foreign state in the customs procedure of processing in the customs territory (processing of goods for domestic consumption), certified by a tax body which performed this formalization;

4) a copy of the goods declaration, in accordance with which a change in the customs procedure of processing for domestic consumption in the territory of a foreign state to the customs procedure of production for domestic consumption in the territory of the foreign state or to the customs procedure of export.

**Footnote. Article 243 as amended by the Laws of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 09.01.2012 No. 535 -IV (shall be enforced from 01.01.2011).**

#### **Article 244. Taxation of the international transportation**

1. The turnover on realization of the following services shall be taxable at the zero rate:

1) transportation of goods, including mail, which are exported from the territory of the Republic of Kazakhstan and imported to the territory of the Republic of Kazakhstan;

2) transportation of transit cargoes through the territory of the Republic of Kazakhstan;

3) transportation of passengers and luggage through the international transportation

2. For the purposes of paragraph 1 of this Article, transportation shall be international, if formalization of transportation is performed by using the uniform international shipping documents, established by paragraph 3 of this Article.

In case of the carriage of passengers from the Republic of Kazakhstan, unless otherwise provided in this paragraph, export goods along the territory of the Republic of Kazakhstan by several transport organizations, the origin for the carriage of passengers, transportation of goods (post, luggage) by the transportation company, which carries out the transportation up to the border of the Republic of Kazakhstan.

In case of the carriage of passengers to the territory of the Republic of Kazakhstan, unless otherwise provided, import of goods (post, luggage) by several transport organizations, a carriage is an international, realizing by the transport organization, by means of transport, in which the passengers, goods (post, luggage) were imported to the territory of the Republic of Kazakhstan.

3. For the purposes of this Article, the uniform international shipping documents are:

1) when transporting cargoes:

in international road communications - a waybill;

in international and interstate communications by railway transport - a uniform model invoice;

by air transport - a freight bill;

by sea transport ??- a bill of lading or a sea waybill;

by a system of pipelines:

a copy of the declaration of goods, placed under the customs procedure of export and production for domestic consumption for a billing period or the declaration of goods, placed under the customs procedure of customs transit for a billing period;

acts of execution of works, delivery and acceptance certificate for goods from a seller or from other persons who previously performed delivery of the specified cargoes to a buyer or to other persons who perform further delivery of the specified cargoes;

invoices;

2) when transporting passengers and luggage:

by motor vehicles:

in regular transportations - a report on sale of travel tickets, sold in the Republic of Kazakhstan and paysheets on passenger tickets, composed by bus stations (coach station) along the route;

in irregular transportations - the list of passengers;

by railway transport:

a report on sale of travel tickets, shipping and mailing documents, sold in the Republic of Kazakhstan;

paysheets on passenger tickets, sold in the Republic of Kazakhstan in international communications;

the balance sheet on mutual settlements for passenger transportation between railway administrations and a report on formalization of travel and transportation documents;

by air transport:

the general declaration;

a passenger manifest;

a cargo manifest;

loggia (center-boot schedule);

the combined load manifest (travel ticket and baggage check).

**Footnote. Article 244 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 09.01.2012 No. 535-IV (shall be enforced from 01.01.2011); dated 22.06.2012 No. 21-V (shall be enforced from 01.01.2011).**

**Article 244-1. Taxation of realization of fuels and lubricants, performed by airports when refueling aircrafts of foreign airlines, performing international flights, international air transportations**

1. The turnover on realization of fuels and lubricants which is performed by airports when refueling aircrafts of foreign airlines, performing international flights, international air transportations shall be taxable at the zero rate.

The provisions of this Article shall be applied to airports which realize fuels and lubricants when refueling aircrafts of international airlines, performing international flights, international air transportations.

2. For the purposes of this Article:

1) international airlines are the airlines of a foreign state, including member-states of the Customs Union;

2) an international flight is a flight of an aircraft, in which the aircraft crosses the border of a foreign state;

3) an international air transportation is an air transportation, when performing which the points of departure and destination (regardless of whether or not there is a break in the transportation or transshipment) shall be located:

in the territory of two or more states;

in the territory of one state, unless there is a stop in another state.

The provisions of the third sub-paragraph of sub-paragraph 3) of the first part of this paragraph shall not be applied, if the points of departure and destination are the Republic of Kazakhstan.

3. The documents confirming turnovers which are taxable at the zero rate when realizing fuels and lubricants which is performed by airports when refueling aircrafts of foreign airlines performing international flights, the international air transportations shall be:

1) a contract of an airport with an foreign airline which provides and (or) includes realization of fuels and lubricants - when performing regular flights;

an application of a foreign airline and (or) a contract (agreement) of an airport with the foreign airline - when performing regular flights.

At that, the application shall include the following information:

the name of an airline with specification of the state, in which it was registered;

the date of intended landing of an aircraft.

The application, provided by this paragraph shall not be submitted when landing of a foreign aircraft due to force majeure circumstances.

For the purposes of this Code:

a regular flight is a flight which is performed according to the schedule, approved in the order, established by the legislation of the Republic of Kazakhstan on use of air space of the Republic of Kazakhstan and aviation activities;

an irregular flight is a flight which does not meet the definition of a regular flight;

2) request for refueling of a foreign aircraft that shall specify the following information:

the name of an airline;

the number of the requested fuels and lubricants;

the date of refueling of the aircraft;

signatures of the aircraft commander or a representative of a foreign airline and an official of the appropriate airport service which performs the refueling;

3) the copies of the transport (transportation), commercial and (or) other documents with mark of a custom body, confirming refueling with fuels and lubricants of foreign aircrafts which perform international flights, international air transportations - in cases of refueling international aircrafts, which perform international flights, international air transportations, except flights, in regard to which in accordance to custom legislation of Custom union and (or) custom legislation of the Republic of Kazakhstan, does not provide customs clearance and custom control;

4) the document confirming the fact of payment for fuels and lubricants, realized by an airport to an international air company;

5) *excluded by the Law of the Republic of Kazakhstan dated 27.04.2012 No. 15-V (shall be enforced upon the expiry of ten days after its first official publication);*

6) a conclusion of an official of an authorized body in the sphere of civil aviation, who participates in the thematic audit on confirmation of the amounts of the value-added tax, presented for repayment, confirming the fact of flight by an aircraft of a foreign airline and the number of realized fuels and lubricants (in the reserve of airlines) in the form and in the order, approved by an authorized body by the agreement with the authorized body in the sphere of civil aviation.

The conclusion provided for in this sub-paragraph shall be submitted by an official of the authorized body in the field of civil aviation in the case of the flight for which, in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan does not provide customs clearance and customs control.

**Footnote. The Code is supplemented with Article 244-1 in accordance with the Law of the Republic of Kazakhstan dated 26.11.2010 No. 356-IV (shall be enforced from 01.01.2011), as amended by the Law of the Republic of Kazakhstan dated 27.04.2012 No. 15-V (shall be enforced upon the expiry of ten days after its first official publication);**



## **Article 244-2. Taxation of goods, realized in the territory of a special economic zone**

1. Realization of goods in the territory of a special economic zone which are fully consumed when performing the activity which corresponds with the aims of the special economic zones on the enumeration of goods, determined by the Government of the Republic of Kazakhstan shall be taxable by the value-added tax at the zero rate.

For the purposes of this Article, the goods, specified in the first part of this paragraph are the goods which are placed under the customs procedure of the free customs zone and which are under the customs control.

2. The documents, confirming turnovers which are taxable at the zero rate when realizing the goods which are fully consumed when performing the activity, corresponding with the aims of the special economic zones shall be:

1) an agreement (contract) on supply of goods by organizations working in the territory of special economic zones;

2) copies of the declaration for the goods and (or) transport (transportation), commercial and (or) other documents with attachment of the enumeration of goods with marks of a tax body releasing the goods via the customs procedure of the free customs zone;

3) copies of the shipping documents, confirming shipping of the goods to the organizations, specified in sub-paragraph 1) of this paragraph;

4) copies of the documents, confirming receipt of the goods by the organizations, specified in sub-paragraph 1) of this paragraph;

3. Refund of an excess of the value-added tax to suppliers of the goods realized in the territory of a special economic zone shall be performed in part of the imported goods actually consumed when performing the activity, corresponding with the aims of the special economic zones after receiving the confirmation from a tax body, located in the territory of the special economic zone. The basis for the confirmation is a document on use of the imported goods when performing the activity, corresponding with the aims of the special economic zones, handed at the request of a tax body, located in the territory of the appropriate special economic zone.

4. The governing company of a special economic zone shall hand a document on actual consumption of the imported goods when performing the activity, corresponding with the aims of the special economic zones.

The document, specified in the first part of this paragraph shall be handed when having financial provision.

In case of revealing reliability of the information, contained in the document, specified in the first part of this paragraph, the losses of the budget shall be reimbursed at the expense of a financial provision.



Financial provision, formed for the purposes of reimbursement of the losses of the budget shall be performed in the following ways:

- money;
- a bank guarantee;
- surety ship;
- pledge of property;
- an insurance contract.

The governing company shall have the right to choose any of the ways of formation of financial provision, including combinations of two or several ways.

5. The governing company of a special economic zone shall submit the documents, confirming that a special economic zone of the governing company has financial provision in the amount equivalent to not less than 205 000-fold of the monthly calculation index, established by the Law on the Republican Budget to a tax body, located in the territory of the special economic zone.

The order of formation of financial provision, submission of the documents, confirming that the governing company has financial provision, and the order of reimbursement of the losses of the budget at the expense of financial provision shall be determined by the Government of the Republic of Kazakhstan.

**Footnote. The Code is supplemented with Article 244-2 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 470-IV (shall be enforced from 01.01.2012).**

### **Article 244-3. Specifics of taxation of goods, realized in the territory of the special economic zone "Astana - new city"**

1. Unless otherwise provided by Article 244-2 of this Code, realization of goods which are fully consumed in the process of building and commissioning of objects of infrastructure, hospitals, clinics, schools, kindergartens, museums, theatres, secondary and higher education institutions, libraries, schoolchildren's palaces, sports complexes, administrative and residential complexes in accordance with the design and estimate documentation in the special economic zone "Astana- New City" on the enumeration of the goods, determined by the Government of the Republic of Kazakhstan, shall be taxable by the value-added tax at the zero rate.

For the purposes of this Article, the goods which are fully consumed in the process of building are the goods which are directly engaged in the process of construction of infrastructure objects, hospitals, clinics, schools, kindergartens, museums, theatres, secondary and higher education institutions, libraries, schoolchildren's palaces, sports complex, administrative and residential complexes (except for electricity, gasoline, diesel fuel and water), provided placement of these goods under the customs procedure of free customs zone and being under the customs control.

2. The documents, confirming turnovers which are taxable at the zero rate in accordance with this article shall be:

1) an agreement (contract) on supply of goods by organizations that build the objects, specified in paragraph 1 of this Article in the territory of the special economic zone "Astana - New City";

2) copies of the declaration for the goods and (or) transport (transportation), commercial and (or) other documents with attachment of the enumeration of the goods with the Footnotes of a tax body, releasing the goods via the customs procedure of a free tax zone;

3) copies of the shipping documents, confirming shipment of the goods to the organizations, specified in sub-paragraph 1) of this paragraph;

4) copies of the documents, confirming receipt of goods by the organizations, specified in sub-paragraph 1) of this paragraph.

3. Refund of an excess of the value-added tax to suppliers of the goods, realized in the territory of the special economic zone "Astana -New City" in accordance with this Article, shall be performed in the part of the imported goods which are fully consumed in the process of building of objects of infrastructure, hospitals, clinics, schools, kindergartens, museums, theatres, secondary and higher education institutions, libraries, schoolchildren's palaces, sports complexes, administrative and residential complexes after receiving the confirmation from a tax body, located in the territory of the special economic zone "Astana - New City". The basis of the confirmation is a document on actual consumption of the imported goods in the process of building of objects of infrastructure, hospitals, clinics, schools, kindergartens, museums, theatres, secondary and higher education institutions, libraries, schoolchildren's palaces, sports complexes, administrative and residential complexes, which is handed at the request of the tax body, located in the territory of the special economic zone "Astana -New City" by a local executive body.

**Footnote. The Code is supplemented with Article 244-3 in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 470-IV (shall be enforced from 01.01.20120.**

#### **Article 244-4. Taxation of the affined gold**

1. The turnover on realization of the affined gold from own raw materials for receiving gold assets to the National Bank of the Republic of Kazakhstan by taxpayers, extracting and producing gold, shall be taxable by the value-added tax at the zero rate.

2. The documents, confirming turnovers which are taxable at the zero rate, specified in paragraph 1 of this Article shall be:

1) a contract on general conditions of purchase and sale of the refined gold for replenishment of gold assets, concluded between a taxpayer and the National Bank of the Republic of Kazakhstan;

2) copies of the documents, confirming receipt of the affined gold by the National Bank of the Republic of Kazakhstan with specification of the amount of the affined gold.

3) copies of the documents, confirming receipt of the affined gold by the National Bank of the Republic of Kazakhstan with specification of the amount of the affined gold.

Footnote. The Chapter 31 is supplemented with Article 244-4 in accordance with the Law of the Republic of Kazakhstan dated 09.01.2012 No. 535-IV (shall be enforced from 01.01.2012).

#### **Article 245. Taxation in certain cases**

##### **Note of the RCLII!**

Paragraph 1 as amended by the Law of the Republic of Kazakhstan dated 22.06.2012 No. 21-V (shall be enforced from 01.01.2009).

1. The turnover on realization of goods of own production to the taxpayers working in the territory of the Republic of Kazakhstan under a contract on subsoil use, in accordance with which the imported goods shall be exempted from the value-added tax, shall be taxable by the value-added tax at the zero rate.

In case, if a contract on subsoil use determines the enumeration of the imported goods which are exempted from the value-added tax, the turnovers on realization of the goods, specified in this enumeration shall be taxable at the zero rate.

For the purposes of this Article, the goods of own production shall be a product (goods) which is produced by a payer of the value-added tax him/herself and which has the code of the commodity nomenclature of the foreign economic activity which differs at the level of any of first four digits from the code of raw materials and materials, which were used in production and which are included in the product (goods), corresponding with the criteria for sufficient processing, provided by the lax legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan.

The enumeration of the taxpayer, specified in this Article shall be approved by the Government of the Republic of Kazakhstan.

##### **Note of the RCLII!**

Paragraph 1-1 shall be enforced from 01.01.2009 (see Article 2 of the Law of the Republic of Kazakhstan 22.06.2012 No. 21-V).

1-1. Assessment to added value at the zero rate sales turnover of unstable condensate produced and sold subsurface operating in the framework of the subsoil use

contract referred to in paragraph 1 of Article 308-1 of the Code, from the Republic of Kazakhstan to the other Member States of the Customs Union.

List of taxpayers for the added value referred to in this paragraph shall be approved by the Government of the Republic of Kazakhstan.

**Note of the RCL!**

**Paragraph 1-2 shall be enforced from 01.01.2011 (see Article 2 of the Law of the Republic of Kazakhstan 22.06.2012 No. 21-V).**

1-2. Assessment to VAT at the zero rate turnover of the taxpayer, engaging the activity in the framework of the intergovernmental agreement on cooperation in the gas sector, in the territory of another member state of the Customs Union of refined products from raw materials, previously exported by this taxpayer from the Republic of Kazakhstan and processed in the territory of such another member State of the customs union.

List of taxpayers for the added value referred to in this paragraph shall be approved by the Government of the Republic of Kazakhstan.

2. The documents, confirming realization of goods by the taxpayers, specified in paragraph 1 of this Article are:

1) a contract on supply of goods to taxpayers working in the Republic of Kazakhstan under a contract on subsoil use, in accordance with the conditions of which the imported goods shall be exempted from the value-added tax, specifying that the supplied goods are intended for execution of a work program of the contract on subsoil use;

2) the copies of the shipping documents, confirming shipping of the goods to taxpayers;

3) the copies of the documents, confirming receipt of the goods by taxpayers.

3. Documents confirming the implementation of unstable condensate referred to in paragraph 1.1 of this Article are:

**Note of the RCL!**

**Sub-paragraphs 1) to 3) shall be enforced from 01.07.2010 (see Article 2 of the Law of the Republic of Kazakhstan 22.06.2012 No. 21-V).**

1) an agreement (contract) for the delivery of unstable condensate exported (exported) from the Republic of Kazakhstan to the other Member States of the Customs Union;

2) the act of reading with regard to the number of devices sold an unstable condensate piping system;

3) the act of conveyance of the unstable condensate removed from the territory of the Republic of Kazakhstan to the other member states of the Customs Union on the pipeline system.

The order of metering for the number of sold unstable condensate pipeline system is approved by the Government of the Republic of Kazakhstan.

**Note of the RCL!**

Paragraph 4 shall be enforced from 01.01.2011 (see Article 2 of the Law of the Republic of Kazakhstan 22.06.2012 No. 21-V).

4. Documents confirming the sale of the goods referred to in paragraph 1.2 of this Article are:

- 1) contracts (contracts) for tolling;
- 2) agreements (contracts), on the basis of which the sale of food processing;
- 3) documents confirming the performance of work on processing of raw materials;
- 4) copies of shipping documents confirming the export of raw materials from the territory of the Republic of Kazakhstan to the territory of another Member State of the customs union.

In case of export of raw materials through the pipelines instead of copies of shipping documents, the act of conveyance of such raw materials is appeared;

5) documents, confirming the shipment of refined products to the customer - the taxpayer of a Member State of the customs union, on the territory of which the processing of raw materials was carried out;

6) documents, confirming the receipt of foreign currency earnings related to sales of refined products in taxpayer's bank accounts in banks in the Republic of Kazakhstan are opened in accordance with the legislation of the Republic of Kazakhstan;

7) The conclusion of the appropriate authorized state body on the terms for processing on the territory of a Member State of the customs union under paragraph 8 of Article 276-13 of the Code.

In determining the amount of excess tax for the added value, to be refunded, the results of a tax audit are taking into account, carried out against the buyer of processed products by the State Tax Service of the Customs Union at the request of the tax authority of the Republic of Kazakhstan.

**Footnote. Article 245 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 22.06.2012 No. 21-V (the order of enforcement see Article 2)**

## **Chapter 32. TAXABLE IMPORT**

### **Article 246. Definition of the taxable import**

The taxable import is the goods, imported to the territory of the Customs Union (except for those, exempted from the value-added tax in accordance with Article 255 of

this Code) which shall be subjected to declaration in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan.

**Footnote. Article 246 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

#### **Article 247. The amount of the taxable import**

The amount of the taxable import shall include the customs cost of the imported goods, determined in accordance with the tax legislation of the Customs Union and (or ) the customs legislation of the Republic of Kazakhstan, and the amounts of taxes and customs duties, payable to the budget when importing goods in the Republic of Kazakhstan, except for the value-added tax for import.

**Footnote. Article 247 as amended by the Laws of the Republic of Kazakhstan dated 04.07.2009 No. 167-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

### **Chapter 33. TURNOVERS AND IMPORT EXEMPTED FROM THE VALUE-ADDED TAX**

#### **Article 248. Turnovers on realization of goods, works, services, a place of realization of which is the Republic of Kazakhstan, which are exempted from the value-added tax**

**Footnote. The title of Article 248 in the wording of the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2011).**

Turnovers on realization of the following goods, works, services, a place of realization of which is the Republic of Kazakhstan, shall be exempted from the value-added tax:

- 1) the state signs of postal payment;
- 2) the excise stamps (accounting and control stamps, designed for marketing of excisable goods in accordance with Article 653 of this Code);
- 3) the services, which are performed by the authorized state bodies, in connection with which the government duty is levied;
- 4) the property, bought out for the state needs in accordance with the legislation of the Republic of Kazakhstan;
- 5) the basic means, investments in real estate, intangible and biological assets which are gratuitously transferred to a state institution or a state enterprise in accordance with the legislation of the Republic of Kazakhstan;
- 6) funeral services of funeral homes, cemeteries and crematoria services;
- 7) lottery tickets, except for services related to their distribution;

8) the services for provision of informational and technological interaction between participants of settlements, including provision of services for collection, processing and distribution of the information to the participants of settlements on operations with payment cards and electronic money;

9) the services for processing and (or) repair of goods, imported to the customs territory of the Customs Union in the customs procedure of processing in the customs territory;

10) the works and services related to transportations, which are international in accordance with Articles 244, 276-12 of this Code, namely: the works, services for loading, unloading, transshipment (discharge-filling), transposition of wagons on trolleys or wheel pairs of the different track when crossing the customs border of the Customs Union, forwarding goods, including mail, exported from the territory of the Republic of Kazakhstan, imported in the territory of the Republic of Kazakhstan, and transit cargoes; services of sea ports for servicing international trips;

11) the services for management, maintenance and exploitation of housing facilities ;

12) the bills and coins of the national currency;

13) the goods, works, services, except for turnovers on realization of goods, works, services from the trade and mediatory activities and turnovers on production and realization of excisable goods, public associations of the disabled persons, and production organizations, if these associations and organizations correspond with the following conditions:

the disabled persons shall make 51 percent of the total number of the employees of these production organizations;

the expenses for salaries of the disabled persons shall make 51 percent (in the specialized organizations, where visually, acoustically, orally challenged persons work - no less than 35 percent) from the total expenses for salaries;

14) *excluded by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2011);*

15) the works, services for repair and (or) maintenance of goods within the term, established by a transaction of the warranty period of their exploitation, including the cost of spare parts and details to them, if the conditions of the transaction provide the quality assurance of the realized goods, executed works, provided services by a taxpayer;

16) unless otherwise provided for by Article 244-4 of this Code, the affined precious metals - gold, platinum made from own raw materials;

16-1) unless otherwise provided for by Article 244-4 of this Code, the investment gold under simultaneous compliance with the following conditions:



the total weight of the realized investment gold within a tax period on the value-added tax shall not exceed 32 troy ounces;

the total cost of the realized investment gold within a tax period on the value-added tax shall not exceed the amount made by summation of the amount, calculated in the following order:

weight of the realized investment gold

multiply

by the morning fixing (price quotation) of gold which is established by London Bullion Market Association on the date of realization,

multiply

by the market exchange rate, established on the date of realization.

The provision of this sub-paragraph shall be applied when realizing the investment gold in the forms of:

ingots;

plates;

golden coins, issued by the National Bank of the Republic of Kazakhstan;

17) the services for the activity specified in Articles 411 and 420 of this Code;

18) those, specified in Articles 249 - 254 of this Code;

19) the services, provided for implementation of notarial acts, advocacy;

20) loan operations in cash on the conditions of payment, urgency and recurrency which are performed:

by the National Holding;

by legal entities, 100 percent of voting assets of which are owned by the National Holding.

The enumeration of the specified legal entities shall be approved by the Government of the Republic of Kazakhstan;

21) the goods, placed under the customs procedure of duty free;

**Note of the RCL!**

**Sub-paragraph 22) shall be enforced from 01.01.2011 and operates until 01.01.2016 (see Article 2 of the Law of the Republic of Kazakhstan dated 19.03.2010 No. 258-IV).**

22) the services of a nonresident, provided by a grant funds under an international agreement, a participant of which is the Republic of Kazakhstan, aimed at support (assistance) of low-income citizens in the Republic of Kazakhstan.

**Footnote. Article 248 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (the order of enforcement see Article 2); dated 19.03.2010 No. 258-IV (shall be enforced from 01.01.2011 and operate until 01.01.2016); dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2); dated 26.11.2010 No. 356-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 466-IV (shall be**



enforced 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012); dated 09.01.2012 No. 535-IV (shall be enforced from 01.01.2012).

#### **Article 249. Turnovers related to the land and residential buildings**

1. Realization of a residential building (a part of a residential building) and (or) lease of this building (a part of the building), including sublease, shall be exempted from the value-added tax, except for:

- 1) the realization or lease of a residential building (a part of a residential building) which is used for provision of hotel services;
- 2) provision of services for a hotel accommodation.

**Note of the RCL!**

Paragraph 2, except for sub-paragraph 2), shall operate from 01.01.2003 in accordance with the Law of the Republic of Kazakhstan dated 01.12.2008 No. 100-IV.

2. Unless otherwise provided by this paragraph, transfer of the right of ownership and (or) use and (or) disposal of a land and (or) lease of a land, including sublease, shall be exempted from the value-added tax.

The following shall not be exempted from the value-added tax:

- 1) payment for transfer of a land for parking or vehicle storage and other vehicles;
- 2) transfer of the right of ownership and (or) use and (or) disposal of a land, occupied by a residential building (a part of the residential building) which is used for hotel services, a building (a part of the building) which is not attributed (was not attributed) to a residential building, and lease of this land, including sublease.

**Footnote. Article 249 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 250. Financial operation which are exempted from the value-added tax**

**Footnote. The title of Article 250 in the wording of the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2011).**

1. The financial operations provided by paragraph 2 of this Article shall be exempted from the value-added tax.

2. Financial operations which are exempted from the value added tax shall include:

- 1) the following bank and other operations, which are performed on the basis of a license by banks and organizations, performing certain of banking operations and operations, performed by other legal entities without a license within the powers, established by legislative acts of the Republic of Kazakhstan:

acceptance of deposits, opening and maintaining bank accounts of individuals;

acceptance of deposits, opening and maintaining bank accounts of legal entities;

opening and maintaining of correspondent accounts of banks and organizations performing certain banking operations;

opening and maintaining of metal accounts of individuals and legal entities which reflect the physical quantity of the refined precious metals and coins, made of precious metals which belong to these persons;

transfer operations;

bank loaning operations;

treasury;

organization of exchange operations with a foreign currency;

acceptance for collection and payment documents (except for bills);

opening (aligning) and confirming letters of credit and performing the obligations on them;

issuance of bank guarantees which shall be fulfilled in the form of money;

issuance of bank sureties and other obligations for third persons which shall be fulfilled in the form of money;

factoring and forfeiting operations, performed by banks;

1-1) the following banking operations of an Islamic bank which are performed on the basis of a license:

accepting interest-free demand deposits of individuals and legal entities, opening and maintaining of accounts of individuals and legal entities;

accepting investment deposits of individuals and legal entities;

banking loaning operations: provision of credits in the form of money on conditions of urgency, recurrency and without collecting remuneration by the Islamic banks;

2) operations with securities;

3) services of professional participants of the securities market, and persons who perform the professional activity in the securities market without a license in accordance with the legislation of the Republic of Kazakhstan;

4) operations with derivative financial instruments;

5) operations for insurance (re-insurance) and services of insurance brokers (insurance agents) on conclusion and fulfillment of contracts of insurance (reinsurance);

6) interbank clearing services;

7) operations with payment cards, electronic money, checks, bills, deposit certificates;

8) services for investment management of pension assets and assets of the State Social Insurance Fund;

9) services for management of the rights of claim for residential mortgage loans;

10) services of accumulative pension funds on attraction of pension contributions, on distribution and crediting of the received investment income from pension assets;

11) realization of a participation share;  
12) services on providing micro-credits;  
13) services on providing short-term loans by pawnshops secured by movables;  
14) the following operations which are performed by credit partnerships for their members:

transfer operations: execution of orders for payments and money transfers;

loan operations: provision of credits in the form of money on the conditions of payment, urgency and recurrency;

treasury;

opening and maintenance of bank accounts of participants of a credit partnership;

issuance of guarantees and other obligations which shall be fulfilled in the form of money for participants of a credit partnership;

15) realization of investment gold through metal accounts opened in the order, established by the legislation of the Republic of Kazakhstan in the Center of cash operation and storing values of the National Bank of the Republic of Kazakhstan and (or) in the second-tier banks;

16) concession of the right of claim for loans;

17) the operations, specified in paragraph 4 of this Article.

3. The turnover on realization shall be determined as an increase of the value when realizing securities, participation shares when performing operations with securities, realizing participation shares. An increase of the value shall be determined in the order, specified by Article 87 of this Code.

4. Transfer of property by Islamic banks shall be exempted from the value-added tax in the part of income which is receivable by an Islamic bank within financing of trade activities as a trade mediator with provision of a commercial credit in accordance with the bank legislation of the Republic of Kazakhstan.

For the purposes of this paragraph, the income which is receivable by an Islamic bank shall be the amount of price mark up for the goods, realized to a buyer, which is determined by the conditions of a contract of the Islamic bank on commercial credit, concluded in accordance with the bank legislation of the Republic of Kazakhstan.

The provisions of this paragraph shall not be applied to the cases of realization of goods to a third person by an Islamic bank when the buyer refuses to fulfill a contract on commercial credit.

Footnote. Article 250 as amended by the Laws of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2011); dated 26.11.2010 No. 536-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 466-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2009); dated

05.07.2012 No. 30-V (shall be enforced upon the expiry of ten days after its first official publication).

**Article 251. Transfer of property to the financial leasing**

Transfer of property to the financial leasing shall be exempted from the value-added tax in the part of remuneration which is receivable by a lessor when observing the following conditions:

- 1) this transfer shall meet the requirements, established by Article 78 of this Code;
- 2) a lessee shall purchase property as the basic means, investments in real estate, biological assets.

**Article 252. Services provided by noncommercial organizations**

Turnovers on realization of services, provided by the noncommercial organizations, specified in paragraph 1 of Article 134 of this Code shall be exempted from the value-added tax, if they are connected with:

- 1) provision of services for protection and social welfare, the aged and disabled persons;
- 2) implementation of rites and ceremonies, realization of religious Paragraphs by religious organizations.

**Article 253. Services, works in the sphere of culture, science and education**

Services, works in the sphere of culture, science and education shall be exempted from the value-added tax, if they are related to services, works:

- 1) for holding socially significant events in the sphere of culture, entertaining cultural events, performed under the state order;
- 2) which are performed (except for entrepreneurial activities) by cultural organizations - theatres, philharmonic societies, museums, libraries, cultural and recreational organizations;
- 3) educational - in the sphere of early childhood care and education; primary, basic secondary, secondary, additional education; technical and professional, post-secondary, higher and postgraduate professional education, performed on the appropriate licenses for the right to perform theses of activity;
- 4) scientific research works carried out on the basis of agreements on government order;
- 5) on library service;
- 6) for preservation, except for dissemination of information and propaganda, of objects of historical and cultural heritage and cultural values, listed in the registers of

historical and cultural heritage or the State list of monuments of history and culture in accordance with the laws of the Republic of Kazakhstan.

**Article 254. Goods and services in the sphere of medical and veterinary activities**

1. Turnovers on realization of goods, works, services connected with medical and veterinary services shall be exempted from the value-added tax in cases:

1) of realization of medicines of any form, including medical substances, and materials and components for their production;

2) of realization of products of medical (veterinary) purpose, including orthopedic devices, surdo and typhlitis technology and medical (veterinary) equipment; materials and components for production of medicines of any form, including medical substances, products of medical (veterinary) purpose, prosthetic and orthopedic devices, and medical (veterinary) equipment;

3) of provision of medical (veterinary) services, except for cosmetology, sanatorium and resort.

2. The enumeration of the goods and services, specified in paragraph 1 of this Article shall be approved by the Government of the Republic of Kazakhstan.

**Footnote. Article 254 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

**Article 255. Import which is exempted from the value-added tax**

1. Import of the following goods shall be exempted from the value-added tax:

1) bills and coins of the national and foreign currency (except for the bills and coins of cultural and historical value) and securities;

2) import of goods, performed by individuals according to the norms of duty-free importation of goods, approved in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan;

3) goods, except for excisable goods, which are imported in the form of humanitarian aid in the order which is determined by the Government of the Republic of Kazakhstan;

4) the goods, except for the excisable goods, imported for the purposes of charity by states, governments, international organizations, including technical assistance;

5) the goods, imported for official use by foreign diplomatic and equivalent representative offices of a foreign state, consulate institutions of a foreign state, accredited in the Republic of Kazakhstan, and for personal use by persons related to diplomatic and administrative and technical personnel of these representative offices,

including their family members living with them, consular officials, consular employees, including their family members living with them, released in accordance with the international agreements ratified by the Republic of Kazakhstan;

6) the goods which are subjected to declaring in accordance with the customs legislation of the Republic of Kazakhstan in the customs procedures which establish tax exemption;

6-1) Space objects, an equipment for ground space infrastructure, imported by the participants of space activities, the list of which is determined by the Government of the Republic of Kazakhstan. The provisions of this sub-paragraph shall apply on the basis of confirmation of the authorized body in the field of space activities on the import of such space objects and equipment for space activities, a form of which is approved by the Government of the Republic of Kazakhstan;

7) medicines of any form, including medical substances; products of medical (veterinary) purpose, including prosthetic and orthopedic products, surdo and typhlitis technology and medical (veterinary) equipment; materials, equipment and components for production of all forms of medicines, including medical substances, products of medical (veterinary) purpose, including orthopedic products and medical (veterinary) equipment.

The enumeration of the goods, specified in this sub-paragraph shall be approved by the Government of the Republic of Kazakhstan;

8) postal stamps (except for collection ones);

9) raw materials for production of monetary symbols by the National Bank of Kazakhstan and its organizations;

10) the import of goods, performed at the expense of grants provided by states, governments and international organizations;

11) investment gold, except for the gold, imported by the National Bank of the Republic of Kazakhstan under simultaneous compliance with the following conditions:

the total weight of the investment gold, imported within a tax period on the value-added tax shall not exceed 32 troy ounces;

the total cost of the investment gold, imported within a tax period on the value-added tax shall not exceed the amount, made by adding the amounts, calculated in the following order:

the weight of the imported investment gold

multiply

by the morning fixing (price quotation) of gold which is established by London Bullion Market Association on the date of realization,

multiply

by the market exchange rate, established on the date of realization.

The provisions of this sub-paragraph shall be applied when realizing investment gold in the form of:

ingots;

plates;

golden coins, issued by the National Bank of the Republic of Kazakhstan;

12) the investment gold, imported by the National Bank of the Republic of Kazakhstan.

2. The order of exemption of import of the goods, established in paragraph 1 of this Article from the value-added tax shall be determined by the Government of the Republic of Kazakhstan.

**Footnote. Article 255 as amended by the Laws of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 26.11.2010 No. 356-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012); dated 22.06.2012 No. 21-V (shall be enforced from 01.10.2011).**

## **Chapter 34. OFFSET VALUE-ADDED TAX**

### **Article 256. Offset value-added tax**

1. Unless otherwise provided by this Chapter, a recipient of goods, works, services has the right to offset the amounts of the value-added tax which is payable for the received goods, including the basic means, intangible and biological assets, investments in real estate, works and services when determining the amount of the tax, subjected to contribution to the budget, unless they are used or will be used for the purposes of the taxable turnover, and if the following conditions are met:

1) a recipient of goods, works, services shall be a payer of the value-added tax in accordance with sub-paragraph 1) of paragraph 1 of Article 228 of this Code;

2) a supplier who was a payer of the value-added tax on the date of issuance of an invoice, shall issue the invoice or other document, submitted in accordance with paragraph 2 of this Article on the realized goods, works, services in the territory of the Republic of Kazakhstan;

3) in case of import of goods, the value-added tax shall be paid to the budget and shall not be refundable in accordance with the conditions of the customs procedure;

4) in the cases, provided by Article 241 of this Code, the obligation to pay the value-added tax shall be fulfilled;

5) the persons, specified in sub-paragraph 1) of paragraph 1 of Article 228 of this Code have the right to offset the amounts of the value-added tax for remains of goods (

including the basic means, intangible and biological assets, investments in real estate) on the date of registration for the value added tax when registering these persons for the value-added tax.

2. The amount of the offset value-added tax in accordance with paragraph 1 of this Article is the amount of the tax which is:

1) payable to suppliers on the issued invoices with the singled out value-added tax in them, except for the cases, provided by sub-paragraph 2) - 4) of this paragraph;

2) payable on the invoices, issued in accordance with paragraph 10 of Article 263 of this Code under a contract on financial leasing (except for a contract of leaseback) but not more than the amount of the tax, falling on the taxable turnover of a lessor, determined on the date of the turnover in accordance with paragraph 10 of Article 238 of this Code;

3) payable on the invoices, issued in accordance with paragraph 10 of Article 263 of this Code under the contracts of a leaseback;

4) payable on the invoices, issued in accordance with paragraph 11 of Article 263 of this Code in the part, falling on the cost of the received periodicals and other media products within a tax period, including those, placed on an internet resource in public telecommunication networks;

5) specified in a cargo customs declaration, formed in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan, and which was paid in the established order to the budget of the Republic of Kazakhstan and which shall not be refundable in accordance with the customs legislation of the Customs Union and (or) the conditions of the customs procedure;

6) specified in a payment document or a document, handed by a tax body and confirming payment of the value-added tax in accordance with Article 241 of this Code ;

7) singled out by a separate line in a travel ticket, issued in railway or air transport with specification of the identity number of a taxpayer - carrier;

8) singled out by a separate line in an electronic ticket, issued in air transport with specification of the identity number and the number of the certificate of registration for the value-added tax of a taxpayer - carrier under simultaneous fulfillment of the following conditions:

availability of a boarding pass;

availability of the document, confirming the fact of payment of the cost of electronic ticket;

9) specified in the documents used by a utility service provider, settlements for which are performed through banks;

10) specified in the investment inventory of the goods remains, composed on the date of registration for the value-added tax in the cases, provided by sub-paragraph 5)



of paragraph 1 of this Article, under condition of its confirmation in accordance with the appropriate sub-paragraph of this paragraph;

11) specified in the document for release of goods from the state reserves, issued by an authorized body on the state material reserves in the form, established by the legislation of the Republic of Kazakhstan taking into account the provisions of this sub-paragraph;

12) specified in the declaration for indirect taxes for the imported goods and which coincides with the amount of the value-added tax for the imported goods reflected in an application (applications) on import of goods and payment of indirect taxes which contains (contain) the Footnote of a tax body, provided by paragraph 7 of Article 276-20 of this Code, and which is paid in the established order to the budget in the Republic of Kazakhstan.

The document shall:

Indicate "Without VAT" - in case of goods, turnovers on realization of which are related to the nontaxable turnovers;

the amount of the value-added tax within the amount paid when supplying these goods to the state material reserve and which is determined in the way as if the cost of the released goods included the amount of the value-added tax at the rate, which operated on the date of their release - in case of other goods.

3. Unless otherwise provided by this Article, the value-added tax shall be offset within the tax period, in which the goods, works, services were received in the order, established by paragraph 2 of this Article.

In case of payment of the value-added tax in accordance with Articles 241 and 276-20 of this Code, the paid tax shall be offset within the tax period, in which the obligation to pay the value-added tax was fulfilled.

3-1. For the goods, works, services purchased for the purposes of the exempted turnover but used for purposes of the taxable turnover, the amount of the value-added tax on invoices, issued by suppliers, shall offset within the tax period, in which they were used for purposes of the taxable turnover at the rate, which operated on the date of purchase of these goods, works, services.

3-2. In case of realization of an object of an incomplete building, the value-added tax for goods, works, services used in the process of building of this object, previously designed for realization in the form of the turnover, exempted from the value-added tax in accordance with Article 249 of this Code, shall offset at the rate, which operated on the date of purchase of the specified goods, works, services within the tax period, in which realization of the object of incomplete building was performed.

4. If issuance of an invoice was performed after the date of the turnover on realization of goods, works, services in the case, provided by the second part of

paragraph 7 of Article 263 of this Code, the value-added tax shall be attributed to the offset within the tax period which accounts for the date of the invoice.

In cases, specified in paragraph 20 of Article 263 of this Code, the value-added offset by a lessee within the tax period which accounts for the date of the turnover on realization by a lessor, specified in paragraph 6 of Article 237 of this Code.

5. If a payer of the value-added tax has the taxable and nontaxable turnovers, including those, exempted from the value-added tax, the value-added tax shall be offset in the order, specified by Article 260 of this Code.

**Footnote. Article 256 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).**

**Note of the RCL!**

**Article 257 as amended by the Law of the Republic of Kazakhstan dated 21.06.2012 No. 19-V (shall be enforced from 01.01.2013).**

#### **Article 257. Non-offset value-added tax**

1. The value-added tax shall not be offset in the order, established by paragraph 12 of Article 100 of this Code, if it is payable in connection with receiving of:

1) goods, works, services, used not for the purposes of the taxable turnover, unless otherwise provided by this paragraph;

2) cars, purchased as the basic means;

3) goods, works, services, for which invoices were issued with inobservance of the requirements, established by this Code.

The value added tax shall be offset, if it is payable in connection with the receiving goods, works, services designed for use (used) for the purposes of the nontaxable turnover, in connection with which a taxpayer uses (will use) the proportional method in accordance with Articles 260 and 261 of this Code.

2. In receiving free issue property (goods, works, services), a person who received this property shall not offset the amount of the value-added tax which is payable by a person who transferred this property.

3. The amount of the value-added tax shall not be offset in the following cases:

1) on operations with a taxpayer who is recognized as a false enterprise on the basis of the implemented sentence or resolution of a court, except for the amount of the offset value-added tax on transactions, recognized as valid;

2) on a transaction (transactions), recognized by a court as complete by a subject of private entrepreneurship without intention to perform entrepreneurial activity.

Footnote. Article 257 is in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2009).

#### **Article 258. Adjustment of the amounts of the offset value-added tax**

1. The value-added tax previously offset shall be subjected to exclusion from the offset in the following cases:

1) on goods, works, services, used not for the purposes of the taxable turnover, except for those, used for the purposes of the nontaxable turnover, in connection with presence of which a taxpayer uses the proportional method in accordance with Articles 260 and 261 of this Code;

2) on goods, in case of their damage, loss (except for cases, emerged as a result of an emergency);

3) on excessive losses, incurred by a subject of the natural monopoly;

4) *excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2009).*

5) *excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2009).*

6) *excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2009).*

7) on the property, transferred as a contribution to the authorized capital;

8) provided by paragraph 2 of Article 239 of this Code.

2. For the purposes of this Article, damage of goods means deterioration of all or certain qualities (properties) of the goods, as a result of which the goods cannot be used for the purposes of the taxable turnover.

Loss of goods means an event, as a result of which destruction or loss of the goods happened. Waste of goods, suffered by a taxpayer within the norms of natural loss, established by the Government of the Republic of Kazakhstan shall not be the loss.

3. Adjustment of the amounts of the offset value-added tax shall be performed within the tax period, in which the cases, established in paragraph 1 and 2 of this Article occurred.

4. In the cases, established by sub-paragraphs 1) - 7) of paragraph 1 of this Article, adjustment of the amount of the value-added tax shall be performed in following:

1) on inventories, the amount of the value-added tax shall be performed by applying the rate of the value-added tax, operated on the date of the adjustment, to the balance cost of the inventories as of this date;

2) on the basic means, intangible and biological assets, investments in real estate, the value-added tax shall be excluded from offset in the part of the amount of the

value-added tax, calculated at the rate, operated on the date of purchase of the assets in proportion to the amount, falling on their balance cost without taking into account revaluation and devaluation.

5. The adjustment, provided by this Article, shall not be performed in the cases, specified in paragraph 3 of Article 231 of this Code, except for those, specified in sub-paragraph 1) and 6) of paragraph 3 of Article 231 of this Code.

**Footnote. Article 258 as amended by the Laws of the Republic of Kazakhstan dated 04.07.2009 No. 167-IV (shall be enforced from 01.01.2009); dated 21.07.2011 No. 467 -IV (shall be enforced from 01.01.2009).**

**Article 259. Adjustment of the amounts of the offset value-added tax on doubtful obligations when writing-off obligations**

1. If a part or full amount of the obligation for the purchased goods, works, services is recognized as doubtful in accordance with the provisions of this Code, the amount of the value-added tax previously accepted to offset on these goods, works, services in the amount, corresponding with the amount of the doubtful obligation, shall be subjected to exclusion from the offset after three years from the date of appearance of the obligation, except for the value-added tax subject to offset taking into account sub-paragraphs 3) and 4) of paragraph 1 of Article 256 of this Code.

2. If after the value-added tax was excluded from offset, a payer of the value-added tax, paid for goods, works, services, the amount of the value-added tax for the specified goods, works, services shall be reversed to the offset within the tax period, in which the payment was made.

3. The value-added tax previously offset on goods, works, services shall be excluded from the offset within the tax period, in which the cases, specified in paragraph 1 of Article 88 of this Code emerged, when writing-off obligations, except for the obligations, on which adjustment was made in accordance with paragraph 1 of this Article.

4. if a supplier - payer of the value-added tax was recognized as bankrupt, exclusion from the offset of the value-added tax, previously offset, except for the value-added tax, on which an adjustment was made in accordance with paragraph 1 of this Article, shall be performed within the tax period, in which the decision of judicial bodies was made to exclude the supplier - payer of the value-added tax, recognized as bankrupt, from the State Register of legal entities.

5. The adjustment, provided by this Article shall be performed at the rate of the value-added tax, specified by an invoice, issued by a supplier of goods, works, services when performing the turnover on realization of goods, works, services, on which the adjustment is made.

Footnote. Article 259 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012);

**Article 260. The order of offsetting the value-added tax when having turnovers on realization which are nontaxable by the value-added tax**

Note of the RCLII!

Paragraph 1 as amended by the Law of Republic of Kazakhstan dated 21.06.2012 No . 19-V (shall be enforced from 01.01.2013)

1. On goods, works, services, which are used for the purposes of nontaxable turnovers, the value-added tax, payable by a supplier and on import, shall not be offset, except for the cases, specified in the second part of paragraph 1 of Article 257 of this Code.

2. When there are taxable and nontaxable turnovers, the value-added tax shall be offset by choice of a payer of the value-added tax by the proportional or the separate method.

The chosen method of determination of the value-added tax which is attributable to offset shall not be adjustable during a calendar year.

3. A payer of the value-added tax who builds objects, turnover on realization of which shall be released in accordance with paragraph 1 of Article 249 of this Code, shall apply the separate method of attribution to the offset of the amounts of the value-added tax on the goods, works, services, used for purposes of the taxable turnovers and the turnovers, released in accordance with paragraph 1 of Article 249 of this Code.

4. A payer of the value-added tax have the right to apply the proportional method of attribution to the offset on taxable and nontaxable turnovers, except for the turnovers , exempted from the value-added tax in accordance with paragraph 1 of Article 249 of this Code, if the payer of the value-added tax has:

taxable turnovers,

the turnovers, exempted in accordance with paragraph 1 of Article 249 of this Code , other nontaxable turnovers.

5. Payers of the value-added tax who simultaneously use the proportional and the separate method of attribution to the offset shall not account the turnovers, on which the separate method of attribution to offset is used, when determining the proportion of the taxable turnover in the total amount of the turnover, unless otherwise provided by this paragraph. The total amount of the taxable and nontaxable turnovers shall be accounted when applying the proportional method of offset on goods, works, services simultaneously used for purposes of the taxable and the nontaxable turnovers for determination of the proportion of the taxable turnover in the total amount of the turnover.

6. The value-added tax which shall not be offset in accordance with this Article shall be accounted in the order, established in paragraph 12 of Article 100 of this Code.

**Footnote. Article 260 is in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 261. The proportional method**

The offset value-added tax shall be determined on the basis of the proportion of the taxable turnover in the total amount of the turnover by the proportional method.

#### **Article 262. The separate method**

1. A payer of the value-added tax shall keep the separate account for expenses and the amounts of the value-added tax for the received goods, works, services, used for purposes of taxable and nontaxable turnovers when determining the offset value-added tax by the separate method.

**Note of the RCL!**

**aragraph 2 in the wording of the Law of the Republic of Kazakhstan dated 26.11.2012 No. 57-V (shall be enforced from 01.01.2013)**

2. Banks, organizations, which perform certain of banking operations, microcredit organizations which use the proportional method of the offset have the right to apply the separate method of the amount of the value-added tax for the turnovers related to receipt and realization of pledge property (goods).

**Note of the RCL!**

**aragraph 2-1 shall be enforced from 01.07.2011 and operates until 01.01.2018.**

2-1. An organization which is improving the quality of credit portfolios of the second tier banks, hundred percent of voting shares of which belong to the National Bank of the Republic of Kazakhstan and which uses the proportional method of the offset have the right to apply the separate method of offset of the amount of the value-added tax for the turnover related to purchase, ownership and (or) realization of:

the pledge property (goods), received from a bank on the purchase of rights of claim from this bank for doubtful and bad assets;

the property (goods) which passed to the property of a bank as a result of foreclosure of the pledged property and which is received by an organization, improving the quality of credit portfolios of the second tier banks, hundred percent of voting shares of which belong to the National Bank of the Republic of Kazakhstan, on the purchased rights of claim from this bank for doubtful and bad assets.

**Note of the RCL!**

**aragraph 2-2 shall be enforced from 01.07.2011 and operates until 01.01.2018.**



2-2. A subsidiary of a bank which buys doubtful and bad assets of a parental bank and which uses the proportional method of -off set have the right to apply the separate method of accounting the amounts of the value-added tax for turnovers related to purchase, ownership and (or) realization of:

pledge property (goods), received from the parental bank on the purchased rights of claim for doubtful and bad assets;

property (goods) to the property of the parental bank as a result of foreclosure of the pledged property and which is received by a subsidiary of the bank from the parental bank on the purchased rights of claim for doubtful and bad assets.

3. A lessor that uses the proportional method of offset have the right to apply the separate method of accounting the amounts of the value-added tax for turnovers related to transfer of property to the financial leasing when transferring the property to the financial leasing.

4. Expenses of a lessor connected with purchase of property subjected to transfer to the financial leasing shall be considered as the expenses, incurred for the purposes of the taxable turnover.

5. Islamic banks, using the proportional method of offset, have the right to apply the separate method of accounting of the amounts of the value-added tax for turnovers related to purchase and transfer of property within financing the trade activity as a trade mediator with provision of a commercial credit in accordance with the bank legislation of the Republic of Kazakhstan.

6. Payers of the value-added tax who use the separate method of offset when determining the amount of the value-added tax, subjected to offset on goods, works, services, used for the purposes of taxable and nontaxable turnover, have the right to apply the proportion of the taxable turnover in the total turnover.

**Footnote. Article 262 as amended by the Laws of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012); dated 09.01.2012 No. 535 -IV (shall be enforced from 01.01.2012).**

## **Chapter 35. INVOICE**

### **Article 263. Invoice**

1. An invoice is the obligatory document for all payers of the value-added tax, unless otherwise provided by this Article.

2. A payer of the value-added tax shall when performing turnovers on realization of goods, works, and services, issue an invoice to a recipient of these goods, works, services, unless otherwise provided by this Article.

3. A payer of the value-added tax shall specify the following in an invoice:

1) on turnovers which are taxable by the value-added tax - the amount of the value-added tax;

2) on turnovers which are exempted from the value-added tax - the indication "Without VAT";

4. If a supplier is not a payer of the value-added tax in accordance with sub-paragraph 1) of paragraph 1 of Article 228 of this Code, an invoice or other document, submitted in accordance with paragraph 2 of Article 256 of this Code shall be issued with the indication "Without VAT".

5. An invoice which is subject to offset of the value-added tax in accordance with Article 256 of this Code shall specify:

1) index number of the invoice in Arabic numerals;

2) the date of issuance of the invoice;

2-1) an address of the location of a supplier and a recipient of the goods, works, services without specification of the postcode;

3) for individual entrepreneurs who are suppliers or recipients of the goods, works, services - last name, name, patronymic (when there is one) and (or) the name of a taxpayer, specified in the certificate of registration for the value-added tax;

for legal entities that are the suppliers or recipients of goods, works, services - the name, specified in the certificate of the state registration (re-registration) of a legal entity. It is possible to use abbreviations in accordance with customs, including working customs in the part of specification of the organizational and legal form;

3-1) in cases, specified by paragraph 18 of this Article, the supplier status - consignor or consignee;

4) the identity number of a supplier and a recipient of goods, works, services;

5) the number of the certificate of a supplier-payer of the value-added tax for the registration of the value-added tax;

6) the names of the realized goods, works, services;

7) the amount of the taxable turnover;

8) the rate of the value-added tax;

9) the amount of the value-added tax;

10) the cost of goods, works, services, taking into account the value-added tax.

A structural unit of a legal entity which is a supplier or a recipient of goods, works, and services for the purposes of fulfillment of the following requirements:



sub-paragraphs 3), 3-1) and 4) of this paragraph shall specify details of this structural unit of the legal entity or the legal entity - payer of the value-added tax, a structural unit of which it is;

sub-paragraph 5) of this paragraph shall specify the number of the certificate of registration for the value-added tax of the legal entity-payer of the value-added tax, a structural unit of which it is.

6. The amount of an excise tax shall be additionally specified in an invoice in case of realization of the excisable goods.

In case of realization of goods, works, services on the conditions, meeting the conditions of a contract of commission, an invoice shall be issued with specification of the status of a supplier:

"consignor" - when issuing an invoice by a consignor to a consignee;

"consignee" - when issuing an invoice by a consignee to a buyer of goods, works, services.

In case of non-fulfillment of the conditions established by Article 78 of this Code, a lessor shall issue an invoice or an additional invoice with the mark "non-fulfillment of Article 78 of the Tax Code".

7. Unless otherwise provided by this Article, an invoice shall be issued not earlier than the date of the turnover and no later than five days after the date of the turnover on realization.

A payer of the value-added tax have the right to issue invoices:

when realizing electricity, water, gas, utility services, rail transportations, freight forwarding services, services for provision of a credit (loan, micro-credit) and banking operations, taxable by the value-added tax - on the results of a calendar month no later than the 20th of the month following the month, by the results of which an invoice shall be issued;

when realizing goods, works, services under contracts, concluded for the period of one or more than one year to the persons, specified in paragraph 1 of Article 276 of this Code - by the results of a calendar month no later than the 20th of the month following the month, by the results of which an invoice shall be issued;

when transferring property to the financial leasing in the part of the calculated amount of a remuneration - by the results of a calendar quarter no later than the 20th of the quarter, by the results of which an invoice shall be issued.

8. Unless otherwise provided by this Paragraph, an invoice shall be certified:

for legal entities - by the stamp, containing the name and specification of the organizational and legal form, and by signatures of the head and the chief accountant;

for individual entrepreneurs - by the stamp (when there is one) containing last name, name, patronymic (when there is one) and (or) the name, and by the signature of an individual entrepreneur.

An invoice can be certified by the signature of an employee, authorized for it by the decision of a taxpayer.

A structural unit of a legal entity have the right, by the decision of a taxpayer, to certify invoices, issued by it, by the stamp of this structural unit of the legal entity which shall contain the name and specification of the organizational and legal form of the legal entity.

An invoice, issued by an authorized representative of participants of a general partnership (consortium) in the cases, specified by paragraph 5 of Article 308 of this Code shall be certified by the stamp of the authorized representative, containing the name and specification of the organizational and legal form, and by signatures of the head and the chief accountant of this authorized representative.

9. The amount of the taxable turnover shall be specified separately for each paragraph of goods, works and services in an invoice, unless otherwise provided by this paragraph.

It is allowed to specify the total amount of the turnover, if the document, containing the information, specified in sub-paragraphs 6) - 10) of paragraph 5 of this Article is attached to this invoice.

10. The amount of the turnover shall be specified in an invoice, issued by a lessor for the transferred by it object of leasing on the basis of the total amount of the leasing payments in accordance with a contract on financial leasing without including the amounts of a remuneration and the value-added tax in it.

11. In case of realization of periodicals and other media products, including those, placed on an internet resource, an invoice shall be issued no later than five days after the date of the turnover on realization.

12. The cost of goods, works, services and the amount of the value-added tax in an invoice shall be specified in the national currency of the Republic of Kazakhstan, except for the cases of realization of goods, works, services under foreign trade contracts, and the cases, provided by legislative acts of the Republic of Kazakhstan.

13. An invoice shall be issued in duplicate, one of which shall be handed to a recipient of goods, works, and services.

14. If it is necessary to make adjustments and (or) additions to the previously issued invoice which does not involve replacement of a supplier and (or) a buyer of goods, works, services by the supplier for the purposes of correction of errors, cancellation of the previously issued invoice shall be performed and the corrected invoice, meeting following conditions shall be issued:

1) compliance with the requirements of paragraph 5 of Article 263 of this Code specifying the previous numbers and the date of issue;

2) specification of the date of correction of the previously issued invoice in an invoice;

3) availability of one of the following confirmations of receipt of the corrected invoice by a recipient of goods, works, services:

certification of this invoice by signatures and stamps by a recipient of goods, works, services in accordance with paragraph 8 of this Article;

sending of this invoice to the address of a recipient of goods, works, services by a supplier of the goods, works, services by a registered letter and availability of the notification of receipt.

The provisions of this paragraph shall not be applied in the cases, specified by Article 265 of this Code.

For the purposes of application of this paragraph, adjustment and (or) addition to the previously issued invoice shall not be recognized as replacement of a supplier and (or) a buyer of goods, works, and services:

the identity number of the supplier and (or) recipient of goods, works, services;

the number of the certificate of the supplier for the registration for the value-added tax.

15. Unless otherwise provided by this Article, issuance of an invoice shall not be necessary in cases of:

1) settlements for the provided utility services, communication services to the population through banks with application of the primary accounting documents which are the basis when keeping accounting;

2) formalization of a passenger transportation of by a travel ticket, including an electronic ticket, handed in an air transport;

3) provision of a check of a cash machine to a buyer in case of realization of goods, works, services to the population for prompt cash, except for the cases of realization of goods, works, services to the persons, specified in paragraph 1 of Article 276 of this Code;

3-1) gifting or free transfer of goods to an individual who is not an individual entrepreneur, private notary, private officer of justice, lawyer;

4) provision of the services, provided by Article 250 of this Code.

16. In cases provided by sub-paragraphs 1) - 3) of paragraph 15 of this Article, a recipient of goods, works, services have the right to apply to a supplier of these goods, works, services with the requirement to issue an invoice, and the supplier shall be obliged to fulfill this requirement, taking into account the provisions of this Article.

The issuance of the invoice shall be performed in the cases provided:

1) in sub-paragraph 3) of paragraph 15 of this Article - on the date of the turnover on realization at a place of realization of the goods, works, services;

2) in sub-paragraph 1) and 2) of paragraph 15 of this Article - unless otherwise provided by this sub-paragraph, not earlier than the date of the turnover and no later than five days after the date of the turnover on realization at the location of a service

provider. If a recipient of services did not apply within the period, specified in this sub-paragraph with the requirement to issue an invoice, he has the right to apply to the provider of the services after expiry of the specified period. The provider of the services shall specify the date of the turnover on realization with specification of the tax, calculated at the rate which operated on the date of the turnover along with the date of issuance of the invoice.

In case of taking out of goods in the export regime, an invoice shall be issued no later than the date of the turnover on realization.

18. Specifics of issuance of invoices when realizing (purchasing) under agreements on joint activity are specified in Article 235 of this Code.

19. Issuance of invoices to a buyer of goods, works, services realized on the conditions corresponding with a commission contract shall be performed by a broker. The amount of the turnover on realization of goods, works, services in an invoice, issued by the broker, shall be specified on the basis of the cost of the goods, works, services, on which the broker performs their realization to a buyer.

An invoice shall be issued by a broker, taking into account the following information:

the invoice, issued to the broker by a consignor which is a payer of the value-added tax. In this case, the amount of the taxable (nontaxable) turnover, reflected in the invoice, issued by the consignor to the broker, shall be included in the taxable (nontaxable) turnover in the invoice, which is issued by the broker to a buyer;

The amount of the taxable turnover in an invoice, issued by a consignor to a broker, shall be specified on the basis of the cost of the goods, works, services, on which they were provided to the broker for realization.

The amount of the taxable turnover in an invoice, issued by a broker to a consignor, shall be specified on the basis of the amount of the broker's commission.

19. Issuance of an invoice to a buyer of goods, works, services, realized on the conditions corresponding with an agency agreement, shall be performed (in the cases provided by paragraph 2 of Article 233 of this Code - by an attorney) in the order, established by this part.

20. In case of inobservance of the requirements, established by Article 78 of this Code, a lessor shall no later than five working days from the date of the specified non-fulfillment, issue:

in case of transfer of property to the financial leasing - an additional invoice which shall contain the negative value of the exempted turnovers and the positive value of taxable turnovers without including the amounts of a remuneration with specification of the value-added tax;

in case of transfer of property to the financial leasing in the part of the distributed amount of remuneration - the additional invoices which shall contain the negative

value of the exempted turnovers and the positive value of taxable turnover without including the amount of the remuneration with specification of the value-added tax.

21. An invoice shall be issued in accordance with the requirements of this Article with specification of the details of an operator when realization (purchase) of goods, works, services as a supplier (buyer) in the cases, provided by paragraph 3 of Article 271-1 of this Code.

**Footnote.** Article 263 as amended by the Laws of the Republic of Kazakhstan dated 04.07.2009 No. 167-IV (shall be enforced from 01.01.2009); dated 10.07.2009 No. 178-IV; dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2); dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9); dated 09.01.2012 No. 535-IV (shall be enforced from 01.01.2012).

#### **Article 264. Specificss of issuance of invoices by forwarders**

1. Issuance of invoices for freight transportation for senders or recipients of the freight shall be performed by a forwarder, if the specified transportation is performed in accordance with a contract on freight forwarding.

An invoice, issued by a forwarder on the basis of the invoices, issued by carriers and other suppliers of the works, services who are payers of the value-added tax under a contract of freight forwarding, concluded between the forwarder and a sender or a recipient of the freight.

If a carrier (supplier) is not a payer of the value-added tax, invoices shall be issued by a forwarder on the basis of the document, confirming the cost of works, services.

2. The amount of the taxable turnover in an invoice, issued by a forwarder, shall be specified taking into account the cost of works and services, executed and provided by carriers and (or) suppliers under a contract of freight forwarding.

An invoice shall specify the turnover, including the cost of works, services, performed by carriers and (or) suppliers:

- who are the payers of the value-added tax;
- who are not payers of the value-added tax.

The amount of remunerations, included in the amount of the taxable turnover of a forwarder in an invoice, shall be singled out by a separate line.

3. An invoice shall be issued in duplicate by a forwarder.

The first copy of an invoice shall be handed to a sender or a recipient of freight.

The second copy of an invoice, to which the document revealing information on transportations and (or) suppliers of works, services, provided under a contract of freight forwarding and their cost is attached, shall remain for a forwarder.

The document attached to an invoice shall reflect the following information:

1) the index number and the date of issuance of the invoice of a carrier and (or) a supplier of works, services;

2) the identity number of a taxpayer of a carrier and (or) a supplier of works, services;

3) the last name, name, patronymic (when there is one) or name of a carrier and (or) a supplier of works, services;

4) series and the number of the certificate of registration for the value-added tax if a carrier and (or) a supplier are the payers of the value-added tax shall be specified separately.

5) the cost of works, services, performed by a carrier and (or) a supplier of works, services which includes the amount of the taxable turnover, specified in the invoice. The cost of the works, services, performed by the carrier and (or) the supplier who are not payers of the value-added tax shall be specified separately.

4. An invoice, issued in accordance with the specified requirements shall be the basis for attribution to offset of the amount of the value-added tax by senders or recipients of freight.

**Footnote. Article 264 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009);**

#### **Article 264. Issuance of additional invoices**

1. A supplier of goods, works, services shall issue an additional invoice in the order, established by paragraph 2 of this Article in the following cases:

1) adjustment of the amount of the taxable turnover in accordance with Article 239 of this Code;

2) simultaneous compliance under the following conditions:

an invoice issued by a supplier of works, services in the cases, provided by Article 263 of this Code before the date of the turnover on realization with specification of the amount of the value-added tax, charged at the rate, which operated on the date of issuance of this invoice;

the rate of the value-added tax which operated on the date of issuance of an invoice differs from the rate of the tax which operated on the date of the turnover on realization on this invoice.

2. An additional invoice shall specify:

1) the index number in Arabic numerals of the additional invoice and the date of its issuance;

2) the identity number in Arabic numerals and the date of issuance of an invoice, to which the additional invoice is issued;

3) the name, address and the identity number of a supplier and recipient of goods, works, services;

- 4) the rate of the value-added tax;
- 5) the amount of adjustment of the taxable turnover without taking into account the value-added tax;
- 6) the adjusted amount of the value-added tax.

3. An additional invoice shall be issued by a supplier of goods, works, and services and shall be confirmed by a recipient of these goods, works, and services.

**Footnote. Article 265 is in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).**

## **Chapter 36. THE ORDER OF CALCULATION AND PAYMENT OF THE TAX**

### **Article 266. The value-added tax which is subjected to payment to the budget on the taxable turnover**

The amount of the value-added tax which is subjected to payment to the budget on the taxable turnover shall be calculated as the disparity between the amount of the value-added tax, charged on taxable turnovers in accordance with Article 268 of this Code and the amount of the offset tax in accordance with Article 256 of this Code.

### **Article 267. The order of payment of the value-added tax in certain cases**

1. Legal entities processing agricultural raw materials shall pay the value-added tax in the order, established by paragraph 3 of this Article.

2. For the purposes of this Article, organizations, processing agricultural raw materials are the organizations which simultaneously correspond with the following conditions:

1) no less than 90 percent of the total annual income of which is the income, receivable (received) as a result of performing the followings of activity, except for the activity in the sphere of public catering:

- production of meat and meat products;
- processing and canning of fruits and vegetables;
- production of vegetable and animal oils and fats;
- processing of milk and production of cheese;
- production of milling industry output;
- production of prepared animal feeds;
- production of bread;
- child nutrition and diet food products;
- production of starch and syrup industries output;

Determination of thes of activity for the purposes of application of sub paragraph 1 ) of this paragraph shall be performed in accordance with the Generalification of

Economic Activities, approved by an authorized state body in the sphere of technical provision;

2) those which do not apply the special tax regimes, except for the special tax regime for subjects of small business;

3) those which do not carry out the activity of production, processing and realization of the excisable goods.

3. The amount of the value-added tax, calculated in accordance with Article 266 of this Code, shall be reduced by 70 percent.

4. Payers of the value-added tax who apply the special tax regime for the legal entities - producers of agricultural products, aquaculture production (fish farming) and the rural consumer cooperatives, shall calculate the value-added tax, taking into account the peculiarity, established by Article 451 of this Code.

5. The total annual income which is applied for the purposes of this Article shall be determined:

1) in accordance with part 4 of this Code without accounting adjustment to the total annual income, provided by Article 99 of this Code;

2) for the current tax period which is determined in accordance with Article 148 of this Code.

6. If the conditions, established by sub-paragraph 1) of paragraph 2 of this Article are not fulfilled by the results of the current tax period, a taxpayer shall:

1) to calculate the value-added tax in the order, established by Article 266 of this Code without applying the provisions, established by paragraph 3 of this Code;

2) no later than ten calendar days after the deadline, established for submission of the declaration for the corporate income tax to submit the additional tax reporting for the value-added tax for the tax periods, in which the value-added tax is subjected to calculation in accordance with Article 266 of this Code without applying the provisions, established by paragraph 3 of this Article, in accordance with Article 70 of this Code.

**Footnote. Article 267 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 21.01.2010 No. 242-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 268. The rates of the value-added tax**

1. Unless otherwise provided by this Article, the rate of the value-added tax shall make 12 percent and be applied to the amount of the taxable turnover and taxable import.

2. The turnovers on realization of goods, works, services, specified in Article 242 - 245 of this Code, shall be taxable by the value-added tax at the zero rate.



In case of disconfirmation of the turnover on realization of goods and services in accordance with Articles 243 - 245 of this Code, which is taxable at the zero rate, this turnover on realization of goods and services shall be taxable by the value-added tax at the rate, specified in paragraph 1 of this Article.

3. Payment of the value-added tax shall be performed in the form of customs duties , taxes at flat rates of customs duties, taxes or in the form of aggregate customs payment when importing goods to the territory of the Republic of Kazakhstan for personal use, transferred through the customs border of the Customs Union by individuals in the order and on the conditions, established by the customs legislation of the Customs Union and (or) the Republic of Kazakhstan.

The amounts and the order of payment of the flat rates of customs duties, taxes and the aggregate customs payment shall be established by the customs legislation of the Customs Union and (or) the Republic of Kazakhstan.

4. When removing a person from the register for the value-added tax to the amount of the taxable turnover, determined in accordance with paragraph 2 of Article 238 of this Code, the rate of the value-added tax shall be applied to:

1) inventories - which operated on the date of removal of a person from the register for the value-added tax;

2) the basic means, intangible and biological assets, investments in real estate - which operated on the date of their purchase.

**Footnote. Article 268 as amended by the Laws of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467 -IV (shall be enforced from 01.07.2010).**

#### **Article 269. The tax period**

A tax period for the value-added tax is a calendar quarter.

#### **Article 270. The tax declaration**

1. A payer of the value-added tax shall to submit the declaration for the value-added tax to a tax body at the location for each tax period no later than the 15th of the second month following the reporting tax period, unless otherwise provided by this Article.

The obligation to submit the declaration for the value-added tax shall not be applied to the persons, specified in sub-paragraph 2) of paragraph 1 of Article 228 of this Code, on which the registration for the value-added tax was not performed.

In cases, provided by paragraph 3 of Article 271-1 of this Code, an operator shall submit the declaration for the value-added tax on contract activities on all participants of a general partnership (consortium).

2. Unless otherwise provided by Article 68 of this Code, the registers of invoices on purchased and realized within a tax period goods, works, services which is the attachment to a declaration, shall be submitted along with the declaration. The forms of registers of invoices on purchased and realized goods, works, and services shall be established by the Government of the Republic of Kazakhstan.

The number of cells to specify the number of an invoice shall not be limited when submitting the following in an electronic format:

1) the register of invoices (the documents for release of goods from the state material reserves) on purchased goods, works, services within the reporting tax period;

2) the register of invoices on realized goods, works, services within the reporting tax period.

3. In cases, provided by sub-paragraph 11) of paragraph 2 of Article 256 of this Code, an authorized state body on state material reserves shall submit the register of the issued documents for it to release goods from the state material reserve in the order, within the deadlines and in the form, established by the Government of the Republic of Kazakhstan.

4. A taxpayer, removed from the register by the decision of a tax body in the cases, provided by paragraph 4 of Article 571 of this Code, shall to submit the liquidation declaration for the value-added tax to a tax body at the location no later than the 15th of the second month following the reporting tax period, in which removal from this register was performed.

**Footnote.** Article 270 as amended by the Laws of the Republic of Kazakhstan dated 04.07.2009 No. 167-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2009).

#### **Article 271. Deadlines for payment of the value-added tax**

1. Unless otherwise provided by this Article, a payer of the value-added tax shall pay the tax, subjected to contributions to the budget at the location for each tax period no later than the 25th of the second month following the reporting tax period.

1-1. In case of removal of a payer of the value-added tax from the register on the value-added tax in accordance with paragraphs 1 and 4 of Article 571 of this Code, payment of the value-added tax, reflected in the liquidation declaration for the value-added tax, shall be performed on the location of the payer of the value-added tax no later than ten calendar days from the date of submission of this declaration to the tax body.

If the deadline for payment of the value-added tax, reflected in the declaration for the value-added tax, submitted for the tax period preceding the tax period, for which

the liquidation declaration for this tax was submitted, comes after the deadline, specified in the first part of this paragraph, the payment of the tax shall be performed no later than ten calendar days from the date of submission of the liquidation declaration to a tax body.

2. The value-added tax for the imported goods shall be paid on the date, determined by the customs legislation of the Republic of Kazakhstan on payment of the customs payments.

**Footnote. Article 271 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

**Article 271-1. Specifics of fulfillment of the tax obligation for the value-added tax by subsoil users which perform the activity under a production sharing agreement (contract) in a partnership (consortium)**

1. The tax obligation to compose and submit tax forms for the value-added tax within the activity under a production sharing agreement (contract) shall be fulfilled:

by each participant of a partnership in the part of a share of the value-added tax, falling on the specified participant;

or by an operator aggregate on the activity, performed under a production sharing agreement (contract), if the operator is authorized to fulfill this tax obligation under the conditions of the production sharing agreement (contract).

2. When fulfilling the tax obligation to compose and submit tax forms on the value-added tax by each participant of a general partnership (consortium):

invoices on realization (purchase) of goods, works, services shall be issued in accordance with the requirements of Article 235 of this Code;

the declaration for the value-added tax and registers of invoices which are the attachment to the declaration shall be submitted by each participant of a general partnership (consortium) in the part, falling on a share of this participant;

the calculated, charged (reduced), transferred and paid (taking into account credited and returned) amounts of the value-added tax shall be reflected on a personal account of each participant of a general partnership in the part, falling on a share of the specified person;

refund of an excess of the value-added tax shall be performed to a participant of a general partnership (consortium), which submitted the declaration;

the order of the tax administration, including delivery of an instruction, notification and act of a tax audit, shall be applied to each participant of a general partnership (consortium) in the order, established by this Code.

3. When fulfilling the tax obligation to compose and submit the tax forms for the value-added tax by an operator aggregate on the activity, performed under a production sharing agreement (contract):

invoices on realization (purchase) of goods, works, services shall be issued in the generally established order in accordance with the requirements of Article 263 of this Code with specification of the details;

the declaration for the value-added tax and registers of the invoices which are attached to the declaration shall be submitted by the operator aggregate on the activity, performed under a production sharing agreement (contract);

the calculated, charged (reduced), transferred and paid (taking into account credited and refunded) amounts of the value-added tax shall be reflected on a personal account of the operator;

refund of an excess of the value-added tax shall be made to the operator;

the order of the tax administration, including delivery of an instruction, notification and act of a tax audit, shall be applied to the operator in accordance with the order, provided by this Code for taxpayers (tax agents) and the specified documents shall be recognized as delivered to each participant of a general partnership (consortium) as to a taxpayer under a production sharing agreement (contract).

**Note of the RCL!**

aragraph 4 shall be enforced from 01.01.2011 (see Article 2 of the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV).

4. The chosen way of fulfillment of the tax obligation to compose and submit the tax forms for the value-added tax in accordance with this Article shall be reflected in the tax accounting policy and shall remain unchanged before the expiration of a production sharing agreement (contract).

**Footnote.** The Chapter 36 is supplemented with Article 271-1 in accordance with the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2009).

## **Chapter 37. Relationship with the budget on the value-added tax**

### **Article 272. Refund of the value-added tax**

1. Unless otherwise provided by this Chapter, the following shall be subjected to refunding to a taxpayer:

**Note of the RCL!**

This wording of sub-paragraph 1) shall operate from 01.01.2011 to 01.01.2016 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV.

1) an excess of the amount of the offset value-added tax over the amount of the charged tax, developed in the declaration as the increasing total at the end of the reporting tax period (hereinafter - increase of the value-added tax) in the order, specified by Articles 273 and 274 of this Code.

Refund of an excess of the value-added tax, specified in the first part of this sub-paragraph formed in connection with the purchase of goods, works, services which are not used for the purposes of turnovers, taxable at the zero rate, shall be performed within the amounts of the offset value-added tax of the paid when purchasing works, services from a nonresident who is not a payer of the value-added tax in the Republic of Kazakhstan and who does not work through an affiliate, representative office in accordance with Article 241 of this Code.

The provisions of the second part of this sub-paragraph shall not be applied to taxpayers who have the right to apply the simplified order of refund of an excess of the value-added tax, provided by Article 274 of this Code.

The Government of the Republic of Kazakhstan shall establish criteria of attribution of realization of goods, works, services, taxable at the zero rate to the permanent realization, provided by sub-paragraph 1) of paragraph 3 of this Article and the order of determination of the amount of the excess of the value-added tax, subjected to refunding:

related to turnovers, taxable at the zero rate in case of inobservance of the conditions, established by paragraph 3 of this Article;

provided by the second part of this sub-paragraph;

2) the value-added tax, paid to suppliers of goods, works, services, purchased at the expense of a grant, fund in the order, established by Article 275 of this Code;

3) the value-added tax, paid by diplomatic and equivalent representative offices of foreign states, consular institutions of foreign states, accredited in the Republic of Kazakhstan and by persons, related to the diplomatic, administrative and technical personnel of these representative offices, including their family members, living with them, consular officials, consular employees, including their families' members, living with them, suppliers of goods, works, services, purchased in the territory of the Republic of Kazakhstan in the order, established by Article 276 of this Code;

4) the amount of the value-added tax, overpaid to the budget in the order, established by Article 599 and 602 of this Code.

2. An excess of the value-added tax, specified in the first part of sub-paragraph 1) of paragraph 1 of this Article, developed for goods, works, services, purchased before January 1, 2009, shall not be subjected to refund from the budget, except for the excess, formed in connection with the purchase of goods, works, services, which are used or will be used for the purposes of turnovers, taxable at the zero rate.

An excess of the value-added tax, which is not subjected to refund from the budget in accordance with this paragraph shall be offset against future payments for the value-added tax. The offset shall not be performed against payment of the value-added tax, subjected to payment when importing and the one, provided by Article 241 of this Code.

3. On turnovers, taxable at the zero rate, an excess of the amount of the offset value-added tax over the amount of the charged tax, developed for the declaration as increasing total at the end of the reporting tax period, shall be subjected to refund, if the following conditions are simultaneously fulfilled:

1) a payer of the value-added tax perform the permanent realization of goods, works, services, taxable at the zero rate;

2) the turnover on realization, taxable at the zero rate for the tax period, in which turnovers, taxable at the zero rate, were performed and on which the requirement to refund an excess of the value-added tax was specified in the declaration, made no less than 70 percent in the total taxable turnover on realization.

4. *Expired in accordance with the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV.*

**Footnote. Article 272 as amended by the Laws of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV; dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

#### **Article 273. Refund of an excess of the value-added tax**

1. Refund of an excess of the value-added tax shall be made to a taxpayer:

1) in the order and within the deadlines established by this Article, unless otherwise provided by Article 274 of this Code;

2) on the basis of its request to refund specified in the declaration for the value-added tax for a tax period.

2. If a payer of the value-added tax did not specify the requirement to refund an excess of the value-added tax in the declaration for the value-added tax, this excess shall be set off against future payments for the value-added tax or could be required to return.

The payer of the value-added tax shall have the right for refund of an excess of the value-added tax, formed after November 1, 2009, within the limitation period, established by Article 46 of this Code.

3. Unless otherwise provided by paragraph 4 of this Article and Article 274 of this Code, refund of an excess of the value-added tax, confirmed by the results of a tax audit, shall be performed within one hundred and eighty calendar days from the date of submission of the declaration for the value-added tax for a tax period which specifies the request for the refund.

For the purposes of this paragraph, the grounds for return of an excess of the value-added tax are:

1) the act of a tax audit, confirming reliability of the amount of the excess of the value-added tax, presented for the refund;

2) the conclusion to the act of a tax audit, formalized in the case, provided by paragraph 10 of Article 635 of this Code;

3) the documents, confirming turnovers, taxable at the zero rate in accordance with Article 243 - 245 and with Articles 276-11 - 276-13 of this Code when having turnovers, taxable at the zero rate.

4. Refund of the value-added tax to a payer, who performs turnovers, taxable at the zero rate which make no less than 70 percent in the total taxable turnover on realization for a tax period, except for those, specified in paragraph 2 of Article 274 of this Code, shall be performed within sixty working days from the date of submission of the declaration for the value-added tax which specifies the request for the refund.

For the purposes of this paragraph, the grounds for refund of an excess of the value-added tax are:

1) the act of a tax audit, confirming reliability of the amount of the value-added tax, presented to the refund;

2) the documents, confirming turnovers, taxable at the zero rate in accordance with Article 243 - 245 and with Articles 276-11 - 276-13 of this Code;

3) the conclusion to the act of a tax audit, formalized in the case, provided by paragraph 10 of Article 635 of this Code.

5. Refund of an excess of the value-added tax shall not be performed to the following:

1) a taxpayer who makes settlements with the budget in the special tax regimes, established for:

subjects of small business;

peasants and farmers;

legal entities - producers of agricultural products, aquaculture production (fish farming) and the rural consumer cooperatives;

2) a taxpayer who applies the provisions of Article 267 of this Code.

An excess of the value-added tax, subjected to refund from the budget, shall be refunded to a taxpayer in the order, established by Article 603 of this Code.

6. An excess of the value-added tax which is not subjected to refund from the budget shall be set off against future payments of the value-added tax. The set-off shall not be performed against payment of the value-added tax which is subjected to payment when importing and the one, provided by Article 241 of this Code.

7. The amount of the value-added tax, on which a taxpayer specifies the request to return the value-added tax in the declaration, refunded from the budget and which is not confirmed during a documentary tax audit, shall be subjected to payment to the budget by a taxpayer on the basis of the notification upon the results of the tax audit.

If refund of an excess of the value-added tax to a taxpayer was previously performed with charge and transfer of a fine in accordance with paragraph 4 of Article



603 of this Code in favor of this taxpayer, the fine previously transferred to the taxpayer and the one, falling on the refunded amount of the excess of the value-added tax which is not confirmed during a tax audit, shall be paid to the budget on the basis of the notification on the results of the tax audit.

8. The amounts, specified in paragraph 7 of this Article shall be paid to the budget with charge of a fine in the amount, specified in paragraph 4 of Article 603 of this Code for each day from the date of transfer of these amounts to a taxpayer.

**Footnote. Article 273 as amended by the Laws of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 21.01.2010 No. 242-IV (shall be enforced from 01.01.2011).**

#### **Article 274. The simplified order of refund of an excess of the value-added tax**

1. The simplified order of refund of an excess of the value-added tax consists of the refund of the value-added tax without a preliminary tax audit.

2. The following payers of the value-added tax have the right to apply the simplified order of refund of an excess of the value-added tax, who submitted declarations of the value-added tax with specification of the request for refund of the excess of the value-added tax:

1) who are for no less than twelve consequent months on monitoring of major taxpayers and who do not have the unfulfilled tax obligations to submit the tax reporting at the date of submission of the declaration for the value-added tax with specification of the request for refund of the excess of the value-added tax.

The right to apply the simplified order of refund of an excess of the value-added tax shall pass to a legal successor (legal successors) of a reorganized entity in reorganization via separation, segregation, transformation of a major taxpayer, subjected to the monitoring, meeting the requirements, provided by this sub-paragraph.

When reorganizing by merger or accession of large taxpayers, subjected to the monitoring, meeting the requirements, provided by this sub-paragraph, the right to apply the simplified order of refund of an excess of the value-added tax shall pass to the a legal successor provided that all the legal entities, reorganized by merger or accession before the reorganization were major taxpayers, subjected to the monitoring.

The right to apply the simplified order of refund of an excess of the value-added tax in respect of a legal successor (legal successors), specified in the second and third parts of this sub-paragraph shall operate until implementation of the list of the major taxpayers, subjected to monitoring;

1-1) the autonomous education institutions, determined by paragraph 1 of Article 135-1 of this Code which do not have the unfulfilled tax obligation to submit the tax reporting at the date of submission of the declaration for the value-added tax, which specifies the request for refund of an excess of the value-added tax;



2) suspended until 01.01.2016 by the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV. Expired from 01.01.2017 (for the suspended version see an archived version No. 13 of the Tax Code of the Republic of Kazakhstan);

3) suspended until 01.01.2017 by the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (for the suspended version see an archived version No. 13 of the Tax Code of the Republic of Kazakhstan);

3. Refund of an excess of the value-added tax in the simplified order shall be performed within the following deadlines:

1) within fifteen working days from the date, set by this Code (including the period of extension) for submission of the declaration for the value-added tax, which specifies the request for refund of an excess of the value-added tax to a tax body - to payers of the value-added tax, established by sub-paragraphs 1) and 1-1) of paragraph 2 of this Article;

2) no later than five working days from the last date, established by this Code (including the period of extension) for submission of the declaration for the value-added tax for a tax period which specifies the request for refund of an excess of the value-added tax - to taxpayers of the value-added tax specified in sub-paragraph 2) of paragraph 2 of this Article, unless otherwise provided for by this sub-paragraph.

In case of untimely submitting the declaration for the value-added tax, the refund of an excess of the value-added tax to the payers, specified in sub-paragraph 2) of paragraph 2 of this Article shall be performed no later than five working days from the date of submission of the declaration for the value-added tax for a tax period which specifies the request for refund of the excess of the value-added tax;

3) within thirty working days from the date of submission of the declaration for the value-added tax for a tax period which specifies the request for refund of an excess of the value-added tax to a tax payer - to payers of the value-added tax, specified in sub-paragraph 3) of paragraph 2 of this Article/

**Footnote. Article 274 as amended by the Law of the Republic of Kazakhstan dated 19.01.2011 No. 395-IV (shall be enforced from 01.01.2011).**

#### **Article 275. Refund of the value-added tax, paid for goods, works, services, purchased with grant funds**

1. Refund of the value-added tax, paid for goods, works, services, purchased with grant funds shall be performed:

1) to a grantee - a state body which is a beneficiary in accordance with an international agreement on provision of a grant to the Republic of Kazakhstan and to appointing a performer, unless otherwise provided by the specified agreement of the Republic of Kazakhstan;

2) to a performer - a person who is appointed by a grantee for the purposes of realization of a grant (hereinafter - performer).

2. Refund of the value-added tax, provided by paragraph 1 of this Article and paid to suppliers of goods, works, services, purchased with grant funds, shall be performed by the tax bodies within thirty working days from the date of submission of a tax application on refund of the value-added tax, paid for goods, works, services, purchased with the grant funds, unless the following conditions are simultaneously observed:

1) a grant, with funds of which the goods, works, services were purchased, shall be provided by the states, governments,, international organizations;

2) goods, works, services shall be purchased solely for purposes, for which a grant was provided;

3) realization of goods, execution of works, provision of services shall be performed in accordance with an agreement (contract), concluded with a grantee or with a performer, appointed by the grantee, to implement the objectives of the grant.

3. Refund of the value-added tax in accordance with this Article shall be performed by a grantee or a performer in the order, provided by Articles 599, 604 of this Code on the basis of the documents, confirming payment of the value-added tax from a grant funds.

4. For refund of the value-added tax in accordance with this Article, a grantee or a performer shall submit the following documents to a tax body at the location along with a tax application on refund of the value-added tax, paid for the goods, works, services, purchased with the grant funds:

1) a copy of an agreement on provision of a grant by the Republic of Kazakhstan and a foreign state, government of a foreign state or an international organization, included in the list, approved by the Government of the Republic of Kazakhstan;

2) a copy of an agreement (contract), concluded by a grantee or a performer with a supplier of the goods, works, services;

3) a copy of the document, confirming appointment of a performer as such in his/her address with the tax application on return of the value added tax;

4) the document, confirming shipping and receipt of goods, works, services;

5) an invoice, issued by a supplier which is a payer of the value-added tax with singling out the amount of the value-added tax by a separate line;

6) a bill, waybill;

7) the document, confirming receiving goods by materially responsible person of a grantee or a performer;

8) the acts of the works, services, executed and accepted by a grantee or a performer, formalized in the established order;

9) the documents, confirming payment for the received goods, works, services, including payment of the value-added tax;

The refund of the value-added tax, provided by this Article, shall also be performed to grantees and performer who are not the payers of the value-added tax.

**Footnote. Article 275 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).**

**Article 276. Refund of the value-added tax to the diplomatic and equivalent representative offices of foreign states, consular offices of a foreign state, accredited in the Republic of Kazakhstan and to their personnel**

**Footnote. The title of Article 276 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

1. Refund of the value-added tax shall be performed to diplomatic and equivalent representative offices of foreign states, consular offices of a foreign state, accredited in the Republic of Kazakhstan (hereinafter - the representative office) and to the persons, related to diplomatic, administrative and technical personnel of these offices, including their family members living with them, consular officers, consular employees, including their family members living with them (hereinafter - the personnel), for the purchased goods, executed works, provided services in the territory of the Republic of Kazakhstan, if the refund is provided by the international agreements, a participant of which is the Republic of Kazakhstan, or by the documents, confirming the principle of reciprocity when providing benefits on the value-added tax.

Refund of the value-added tax shall be performed by tax bodies at the location of representative offices, included in the list, approved by the Ministry of Foreign Affairs of the Republic of Kazakhstan.

2. Restrictions on the amount and conditions of the return of the value-added tax may be established in respect of certain representative offices on the basis of the principle of reciprocity.

The list of the representative offices, in respect of which the restrictions on refund of the value-added tax are established, shall be approved by the Ministry of Foreign Affairs of the Republic of Kazakhstan by the agreement with an authorized body.

3. Unless otherwise provided by paragraph 2 of this Article, the refund of the value-added tax to the representative offices shall be performed if the amount of the purchased goods, executed works, provided services, including the value-added tax in each separate invoice, issued in the order, established by this Code and the documents, confirming the fact of payment, makes or exceeds 8-fold of the monthly calculation index, established by the Law on the Republican Budget and which operated at the date of issuance of the invoice.

The restrictions, established by this paragraph, shall not be applied to payment for communication services, electricity, water, gas and other utility services.

4. Tax bodies shall refund the value-added tax on the basis of the spreadsheets (registers) and copies of the documents, confirming payment of the value-added tax (invoices issued in the order established by the Code, the documents confirming the fact of payment), composed by the representative offices.

Copies of the accredited documents, handed by the Ministry of Foreign Affairs of the Republic of Kazakhstan, shall be provided in respect of the persons of the representative office.

Spreadsheets (registers) on the purchased goods, executed works, provided services for the reporting quarter, shall be composed quarterly by the representative offices in a paper format in the form, established by an authorized body and shall be certified by the stamp and signed by the head or other authorized official of the representative office.

Spreadsheets (registers), composed by the representative offices, shall be transferred to the Ministry of Foreign Affairs of the Republic of Kazakhstan with attachment of copies of the documents, confirming payment of the value-added tax (invoices, issued in the order, established by this Code, the documents, confirming the fact of payment) within the month following the reporting quarter, except for the cases of the expiry of the period of stay of a member (members) of personnel of the representative office in the Republic of Kazakhstan.

5. After confirmation of the principle of reciprocity, the Ministry of Foreign Affairs of the Republic of Kazakhstan shall transfer the spreadsheets (registers) with attachment of copies of the documents, confirming payment of the value-added tax (invoices issued in the order, established by this Code, the documents confirming the fact of payment) to a tax body at the location of the representative offices, accredited in the Republic of Kazakhstan along with the attached document.

6. Refund of the value-added tax to the representative offices shall be performed by the tax bodies within thirty working days after receiving the spreadsheets (registers) and the documents, confirming payment of the value-added tax with the written notification from the Ministry of Foreign Affairs.

Tax bodies shall notify the Ministry of Foreign Affairs of the Republic of Kazakhstan on refund and (or) refusal to refund the value-added tax after checking the spreadsheets (registers) and copies of the documents, confirming payment of the value-added tax.

In case of refusal to refund the amount of the value-added tax, the tax bodies shall inform about what violations and in which documents were made.

7. In case of revealing violations in the documents, submitted by the representative offices, including the not singled-out amounts of the value-added tax by a separate line, tax bodies shall conduct a counter check of a supplier of goods, works, and services.

If the violations, revealed during the counter check, are not eliminated within the period of the refund, established by sub-paragraph 6 of this Article, the refund of the value-added tax shall be performed within the amount, on which the violations were revealed or eliminated.

If the violations are eliminated after the counter check, the refund of the value-added tax shall be performed on the basis of a submitted additional spreadsheet (register) with attachment of copies of the documents, confirming payment of the value-added tax (invoices, issued in the order, established by this Code, the documents, confirming the fact of payment).

The amount of the value-added tax which is not presented for refund for a quarter, in which the goods were purchased, works were executed, services were provided, can be presented for refund on the basis of a submitted spreadsheet (register) with attachment of copies of the documents, confirming payment of the value-added tax (invoices, issued in the order, established by this Code, the documents, confirming the fact of payment).

8. The representative offices shall submit the documents to the tax bodies in Kazakh and (or) Russian languages.

If there are certain documents, made in foreign languages, the translation into Kazakh and (or) Russian languages, sealed by the stamp of a representative office, shall be submitted.

9. Refund of the value-added tax shall be performed by the tax bodies on the appropriate accounts of the representative offices and (or) the personnel of the representative offices, opened in the banks of the Republic of Kazakhstan in the order, established by the legislation of the Republic of Kazakhstan.

**Footnote. Article 276 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

#### **Chapter 37-1. SPECIFICS OF TAXATION BY THE VALUE-ADDED TAX WHEN EXPORTING AND IMPORTING GOODS, EXECUTING WORKS, PROVIDING SERVICES IN THE CUSTOMS UNION**

**Footnote. Section 8 is supplemented with Article 37-1 in accordance with the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

#### **Article 276-1. General provisions**

1. The provisions of this Chapter are established on the basis of the international agreements, concluded between the member-states of the Customs Union and shall regulate taxation in the part of the value-added tax when exporting and importing goods, executing services, providing services and its tax administration in mutual trade of the Customs Union member-states.

If this Chapter establishes other norms in the part of taxation by the value-added tax when exporting and importing goods, executing works, providing services and its tax administration than those containing in other Chapters of this Code, the norms of this Chapter shall be applied.

Unresolved issues in this Chapter, related to taxation by the value-added tax when exporting and importing, executing works, providing services and its tax administration, shall be regulated by other Chapters of this Code and by the legislative act on implementation of this Code.

The concepts, applied in this Chapter, are provided by the international agreements, ratified by the Republic of Kazakhstan and concluded between the Customs Union member-states.

If the international agreements, ratified by the Republic of Kazakhstan, concluded between the member-states of the Customs Union, do not provide the concepts which are used in this Chapter, the concepts provided in the appropriate Articles of this Code, the civil and other fields of the legislation of the Republic of Kazakhstan, shall be applied.

Collection of the value-added tax for the goods, imported to the territory of the Republic of Kazakhstan from the territory of other member-state of the Customs Union, shall be performed by the tax service bodies at the rate, established by paragraph 1 of Article 268 of this Code which is applied to the amount of the taxable import.

The tax control over fulfillment of the tax obligation for the value-added tax by a taxpayer when exporting and importing goods, executing works, providing services in the mutual trade of the member-states of the Customs Union, shall be performed by the tax service bodies on the basis of the tax reporting, submitted by a taxpayer and the information and (or) the documents on the activity of the taxpayer, received from the state bodies or other persons.

For the purposes of this Chapter, the cost of goods, works, and services in a foreign currency shall be converted to tenge at the market exchange rate on the date of the turnover on realization of goods, works, and services of the taxable import.

2. For the purposes of this Chapter, leasing is a transfer of property (an object of leasing) under a leasing contract for the period of more than three years, if it corresponds with one of the following conditions:

1) transfer of property (an object of leasing) to the property of lessee at the fixed price shall be determined by a leasing contract;

2) the period of leasing shall exceed seventy five percent of the useful life period of the property, transferred by leasing (an object of leasing);

3) the current (capitalized) value of the leasing payments for the whole period of leasing shall exceed ninety percent of the cost of the property, transferred by leasing (an object of leasing);

For the purposes of this Chapter, this transfer shall be considered as sell of property (an object of leasing) by a lessor and as a purchase of this property (an object of leasing) by a lessee. The lessee shall be considered as the owner of the object of leasing and the leasing payments - as the payments for a credit, provided to the lessee, a part of the cost of goods.

For the purposes of this Chapter, a leasing payment shall mean a part of the cost of goods (an object of leasing), taking into account remuneration, provided by a leasing contract (agreement).

For the purposes of this Chapter, leasing shall not be the leasing transactions in case of inobservance of the mentioned above conditions or in case of termination of a leasing contract on them (termination of the obligations under a leasing agreement) before the expiry of three years from the date of conclusion of these contracts.

For the purposes of this Chapter, remuneration under a leasing contract shall mean all payments, related to transfer of property (an objects of leasing) to the leasing, except for the cost, for which this property (the object of leasing) was received (transferred), payments to the person who is not a lessor, third party for a lessee.

#### **Article 276-2. Payers of the value-added tax in the Customs Union**

Payers of the value-added tax in the Customs Union shall be:

1) the persons, specified in sub-paragraph 1) of paragraph 1 of Article 228 of this Code;

2) persons, importing goods to the territory of the Republic of Kazakhstan from the territory of the member-states of the Customs Union:

a resident legal entity;

a structural unit of a resident legal entity in case if it is a party of a contract (agreement);

a structural unit of a resident legal entity if a recipient of the goods is a structural unit of the resident legal entity on the basis of the appropriate decision of this legal entity under the conditions of a contract (agreement) between the resident legal entity and a taxpayer of the Customs Union member-state;

a nonresident legal entity working through a permanent establishment without opening an affiliate, representative office and which is registered as a taxpayer in the tax bodies of the Republic of Kazakhstan;

a nonresident legal entity working in the Republic of Kazakhstan through an affiliate, representative office;

a nonresident legal entity working without forming a permanent establishment;

entrusted administrators, importing goods under the agreements on entrusted administration with founders of the entrusted administration or with beneficiaries in other cases of entrusted administration;

a diplomatic and equivalent representative office of a foreign state, accredited in the Republic of Kazakhstan, the persons, related to diplomatic, administrative and technical personnel of these representative offices, including their family members living with them;

a consular office of a foreign state, accredited in the Republic of Kazakhstan, consular officials, consular employees, including their family members living with them;

private notaries, private enforcement agents, advocates, importing goods to perform the notarial activity, implementation of executive court orders, advocacy;

an individual, importing the goods for entrepreneurial activity in accordance with the legislation of the Republic of Kazakhstan;

an individual, importing vehicles, subjected to the state registration in the state bodies of the Republic of Kazakhstan.

**Footnote. Article 276-2 as amended by the Laws of the Republic of Kazakhstan dated 21.7.2011 No. 467-IV (shall be enforced from 01.07.2011).**

### **Article 276-3. Taxation objects, determination of the taxable turnover**

Unless otherwise provided by Article 276-4 of this Code, the objects of taxation by the value-added tax in the Customs Union and the taxable turnover shall be determined in accordance with Articles 229, 230, 241 of this Code.

### **Article 276-4. Determination of the turnover on realization of goods, works, services and the taxable import in the Customs Union**

1. The turnover on realization of goods is the export of the goods from the territory of the Republic of Kazakhstan to the territory of other member-state of the Customs Union.

2. The turnover on realization of works, services in the Customs Union are the turnovers in accordance with paragraph 2 of Article 231 of this Code, if a place of their realization is the Republic of Kazakhstan on the basis of paragraph 2 of Article 276-5 of this Code.

3. The taxable import is:



1) the goods, imported (importable) to the territory of the Republic of Kazakhstan (except for those exempted from the value-added tax in accordance with paragraph 2 of Article 276-15 of this Code).

The provisions of this paragraph shall also be applied to the imported (importable) vehicles, subjected to the state registration in the state bodies of the Republic of Kazakhstan;

2) the goods which are the products of processing of customer-supplied raw materials, imported to the territory of the Republic of Kazakhstan from the territory of other member-state of the Customs Union.

#### **Article 276-5. A place of realization of goods, works, services**

1. A place of realization of goods, works, and services shall be determined in accordance with paragraph 1 of Article 236 of this Code.

2. A place of realization of works, services shall be the territory of a member-state of the Customs Union, if:

1) the works, services are directly connected with the real estate, located in the territory of this state;

The provisions of this sub-paragraph shall also be applied to services for leasing, rent and use of a real estate on other grounds.

For the purposes of this sub-paragraph, a real estate shall be the land, subsoil blocks, detached water objects and everything related to the land, that is the objects, transfer of which is impossible without incommensurate damage to them, including forests, perennial plants, buildings, pipelines, power lines, enterprises as the property complexes and space objects;

2) works, services directly connected with movables, vehicles which are in the territory of this state (except for the services for rent, leasing and use of movables and on other grounds).

For the purposes of this sub-paragraph, the movables shall be the objects which are not connected with the real estate, specified in sub-paragraph 1) of this Article, vehicles.

For the purposes of this sub-paragraph, vehicles shall be the air and sea vessels, inland navigation vessels, "river-sea" vessels; railway rolling stock, buses, vehicles, including trailers and semi-trailers, cargo containers;

3) services in the sphere of culture, art, learning (education), physical culture, tourism, leisure and sports facilities, provided in the territory of this state;

4) a taxpayer of this state buys:

counseling, legal, accounting, audit, engineering, advertising, design, marketing services, data processing services, as well as research, development and technological development (process) works;

works, services for development of software and databases (software and information products of computer technology), their adaptations and modifications, maintenance of this software and databases;

services for provision of personnel in case if the personnel works in the place of the activity of the buyer.

The provisions of this sub-paragraph shall also be applied to:

transferring, providing, concession of patents, licenses, other documents, certifying the rights to state-protected objects of industrial property, trademarks, trade names, service marks, copyrights, related rights or other similar rights;

rent, leasing and use of movables on other grounds, except for rent, leasing and use of vehicles on other grounds;

providing services by a person who attracted other person for executing the works, services, provided by this sub-paragraph on behalf of the main participant of an agreement (contract);

5) works and services are provided by a taxpayer of this state, unless otherwise provided by sub-paragraphs 1) - 4) of paragraph 2 of this Article.

The provisions of this sub-paragraph shall also be applied to renting, leasing and use of vehicles on other grounds.

3. The documents, confirming a place of realization of goods, works, services are:

an agreement (contract) on execution of works, provision of services, which is concluded between a taxpayer of the Republic of Kazakhstan and a taxpayer of the Customs Union member-states;

the documents, confirming the fact of execution of works, provision of services;

other documents, provided by the legislation of the Republic of Kazakhstan.

4. If a taxpayer executes, provides several of works, services, the order of taxation of which is regulated by this part, the realization of some works and services is auxiliary towards realization of other works, services, a place of realization of the auxiliary works, services shall be the place of realization of the main works and services.

**Footnote. Article 276-5 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2010).**

#### **Article 276-6. The date of the turnover on realization of goods, works, services, taxable import**

1. For the purposes of calculation of the value-added tax when exporting the goods, the date of the turnover on realization of the goods shall be the date of shipping, defined as the date which is the first one in composing the primary accounting document, confirming shipping of goods and formalized on the buyer of the goods (the first carrier).

2. Unless otherwise provided by this Article, the date of the taxable import shall be the date when a taxpayer accepts the imported goods for the registration (including goods which are the result of the works, conducted under agreements (contracts) on their production) and goods, received under an agreement (contract) providing a loan in the form of objects, goods which are the products of processing of customer-supplied raw materials.

Unless otherwise provided by this paragraph, for the purposes of this Chapter, the date of acceptance for registration of the imported goods is:

1) the earliest of the dates of recognition (reflection) of these goods in the accounting in accordance with the international standards of financial reporting and the requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting;

2) the date of import of these goods to the territory of the Republic of Kazakhstan.

If a taxpayer has both dates, specified in sub-paragraphs 1) and 2) of the second part of this paragraph, the date of acceptance of the imported goods for the registration shall be the latest of the specified dates.

For the purposes of this paragraph, the date of import of the goods to the territory of the Republic of Kazakhstan is:

when transporting the goods by air or sea vessels - the date of import to an airport or a port, located in the territory of the Republic of Kazakhstan;

when transporting the goods through the international road communication - the date of crossing the state border of the Republic of Kazakhstan.

The date of crossing of the state border of the Republic of Kazakhstan shall be determined on the basis of a coupon on the state control passing, issued by the territorial units of the Border Service of the National Security Committee of the Republic of Kazakhstan;

when transporting the goods through the international and interstate railways - the date of delivery to the first border crossing point (station), established by the Government of the Republic of Kazakhstan;

when transporting the goods through a system of pipelines or by power lines - the date of import to the goods delivery point.

When there are no recognition (reflection) of goods in the accounting in accordance with the international standards of financial reporting and the requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting, the date of acceptance for the registration of the imported goods shall be the date, specified in sub-paragraph 2) of the second part of this paragraph.

In other cases which are not specified by the second - seventh parts of this paragraph and for the persons, the obligation of whom to keep the accounting is not provided by the legislature of the Republic of Kazakhstan, the date of the accounting of

the imported goods shall be determined by the date of issuance of the document, confirming receipt (or purchase) of these goods. The date of the accounting of the imported goods shall be the date of delivery of goods to a buyer by a supplier, if the document confirming the delivery of the goods is provided.

3. The date of the taxable import when importing the goods (objects of leasing) to the territory of the Republic of Kazakhstan from the territory of other Customs Union member-state under a leasing agreement, providing transfer of the ownership right for these goods (objects of leasing) to a lessee, shall be the date of payment of a part of the cost of the goods (objects of leasing), provided by the leasing agreement (regardless of the actual amount and the date of payment) without accounting remuneration.

If a leasing agreement establishes the maturity date of payment of a part of the cost of goods, (objects of leasing) before the date of import of the goods (objects of leasing) to the territory of the Republic of Kazakhstan, the first date of the taxable import shall be the date of the accounting of the imported goods (objects of leasing).

In case if a lessee's prepayment of the leasing payments, provided by a leasing agreement, is performed after three years, the date of the final settlement shall be the last date of the taxable import under this leasing agreement.

In case of inobservance of the requirements, established by paragraph 2 of Article 276-1 of this Code and in case of termination of a leasing agreement (contract) after three years from the date of the accounting of these goods (objects of leasing), the date of taxable import is the date of the adoption of the registration of the imported goods (leased assets).

4. The date of the turnover on realization of works, service shall be the date of execution of works, provision of services, unless otherwise provided by this paragraph.

The date of execution of works, provision of services shall be the date of signing the document, confirming the fact of execution of the works, services.

If works, services are realized on an ongoing (continuous) basis, the date of the turnover on realization shall be the date which comes first:

the date of issuance of an invoice;

the date of receipt of each payment (regardless of the form of payment).

Realization on an ongoing (continuous) basis shall mean execution of works, provision of services in the basis of a long-term contract, concluded for twelve months and more, provided that a recipient of the works, services can use their results in its production activity on the date of execution of the works, provision of services.

If a taxpayer of the Republic of Kazakhstan purchases the works, services from a nonresident which is a payer of the value-added tax in the Republic of Kazakhstan and who works through an affiliate, representative office and is a taxpayer (payer) of the Customs Union member-state - the date of signing the documents, confirming the fact of execution of the works, services.

Footnote. Article 276-6 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).

**Article 276-7. Determination of the amount of the taxable turnover when exporting goods**

1. The amount of the taxable turnover shall be determined on the basis of the cost of the realized goods, based on the transaction costs and or tariffs, applied by parties, unless otherwise provided by this Article and the legislation of the Republic of Kazakhstan on transfer pricing.

2. The amount of the taxable turnover when exporting goods (objects of leasing) under the leasing agreements shall be determined on the date of receipt of each leasing payment in the amount of a part of the primary cost of the goods (objects of leasing), provided by a leasing agreement but no more than the amount of the actually received payment.

The primary cost of goods (objects of leasing) shall mean the cost of a leasing object, specified in a leasing agreement without remuneration.

3. The amount of the taxable turnover when exporting goods under agreements (contracts), providing a load in the forms of objects, shall be determined as the cost of the transferred (provided) goods, provided by a leasing agreement (contract), when there is no cost in the agreement (contract) - the cost, specified in the shipping documents when there is no cost in the agreements (contracts) and the shipping documents - the cost of the goods, reflected in the accounting.

For the purposes of this Article, the shipping documents shall mean: a native car waybill, railway consignment Footnote, waybill, invoice of a single form, luggage list, mailing list, baggage register, air waybill, bill of lading, and the documents used in movement of goods through pipelines and power lines, and other documents, used in transportation of certain excisable goods, and accompanying goods and vehicles in transportation, provided by legislative acts of the Republic of Kazakhstan on transport and under the international agreements, a participant of which is the Republic of Kazakhstan; invoices, specifications, shipping and packing lists and other documents, confirming the information on goods, including the cost of goods, and used in accordance with the international agreements, a participant of which is the Republic of Kazakhstan.

**Article 276-8. Determination of the amount of the taxable import**

1. The amount of the taxable import of goods, including the goods which are the result of execution of works under a contract (agreement) on their production, shall be

determined on the basis of the cost of goods, imported to the territory of the Republic of Kazakhstan from the territory of the Customs Union member-states, unless otherwise provided by this Article.

2. For the purposes of this Article, the cost of goods shall be determined on the basis of the principle of determination of the cost for the purposes of taxation.

The principle of determination of the cost for taxation means determination of the cost of goods on the basis of the cost of a transaction, subjected to payment for the goods according to an agreement (contract), unless otherwise provided by this Article, including the following expenses incurred by a taxpayer, if they were not previously included in:

1) the expenses for delivery of goods to an airport, port or other place of import of the goods to the territory of the Republic of Kazakhstan (with submission of the supporting documents):

the cost of transportation (including forwarding services);

the expenses for loading, unloading, transfer and transshipment of goods.

If the submitted documents do not include calculations on the expenses, specified in this sub-paragraph, to another place of import of goods, the amount of the expenses, specified in the submitted documents, shall be included in the cost of the goods.

For the purposes of this sub-paragraph, another place of import of goods shall be:

when transporting the goods in the international road communications - an automobile checkpoint through the state border of the Republic of Kazakhstan, established by the Government of the Republic of Kazakhstan;

when transporting the goods in the international and interstate communications by railway transport - the first border checkpoint (station), established by the Government of the Republic of Kazakhstan;

when transporting the goods via a system of pipelines or by power lines - the goods delivery point;

2) the cost of insurance;

3) expenses, incurred by a buyer:

the cost of containers or other reusable tare, if they are considered as one with the goods under valuation;

the cost of packaging, including the cost of packaging materials and works.

If the conditions of an agreement (contract) include the expenses, specified in sub-paragraphs 1) - 3) of this paragraph in the cost of a transaction, the cost of the imported goods shall be determined on the basis of the cost of the transaction, specified in the agreement (contract).

3. The amount of the taxable import shall include the amounts of an excise tax for the excisable goods.

The amount of the taxable import of goods (objects of leasing) under leasing agreements shall include the calculated amount of an excise tax for the excisable goods on the date of the accounting of the imported excisable goods (objects of leasing).

4. The amount of the taxable import of goods, received under the goods exchange (barter) agreements (contracts) and agreements (contracts), providing a loan in the form of objects, shall be determined on the basis of the cost of goods, taking into account the principle of determination of the cost for taxation purposes, provided by paragraph 2 of this Article.

The cost of goods shall be determined on the basis of the cost of goods, provided by an agreement (contract), when there is no cost of goods in the agreement (contract) - the cost of goods, specified in the shipping documents, when there is no cost of goods in the agreements (contracts) and the shipping documents - the cost of goods, reflected in the accounting.

5. The amount of the taxable import of goods which are the products of processing of customer-supplied raw materials, shall be determined on the basis of the cost of works on processing these customer-supplied raw materials.

6. The amount of the taxable import of goods (objects of leasing) under a leasing agreement which provides transfer of the ownership right for it to a lessee, shall be determined in the amount of a part of the cost of the goods (object of leasing) provided on the date, established by paragraph 3 of Article 276-6 of this Code without accounting remuneration, taking into account the principle of determination of the cost for taxation purposes, specified in paragraph 2 of this Article.

If the incurred expenses, specified in sub-paragraphs 1) - 3) of paragraph 2 of this Article are not included in the cost of the goods, these expenses shall be subjected to inclusion in the amount of the taxable import of goods (objects of leasing) on the first date of the taxable import of the goods (objects of leasing).

If a leasing agreement (contract) establishes the maturity date of payment of a part of the cost of goods (objects of leasing) before the date of import of the goods (objects of leasing) to the territory of the Republic of Kazakhstan, the amount of the taxable import on the first date of the taxable import of the goods (objects of leasing) shall be determined as the amount of all leasing payments under the leasing agreement (contract), not taking into account the remuneration, the maturity date of payment of which in accordance with the leasing agreement (contract) is established before the date of transfer of the goods (objects of leasing) to a lessee.

If a lessee prepays leasing payments, provided by a leasing agreement (contract) corresponding with the conditions of paragraph 2 of Article 276-1 of this Code, the amount of the taxable import on the last date of the taxable import shall be determined

as the disparity between the amount of all the leasing payments under the leasing agreement (contract) without taking into account the remunerations and the repaid payments without taking into account the remunerations.

In case of inobservance of the requirements, established by paragraph 2 of Article 276-1 of this Code and in case of termination of a leasing agreement (contract) after three years from the date of transfer of property (an object of leasing), the amount of the taxable import shall be determined on the basis of goods (objects of leasing), imported to the territory of the Republic of Kazakhstan from the territory of the member-states of the Customs Union, taking into account the principle of determination of the cost for taxation purposes, reduced by the amount of the leasing payments (without taking into account remunerations) under a leasing agreement (contract), under which indirect taxes were paid. The amount of the taxable import shall include the remuneration, provided by the leasing agreement (contract) until the occurrence of the specified cases.

7. Tax service bodies shall have the right to adjust the amount of the taxable import in the order, established by the Government of the Republic of Kazakhstan, taking into account the requirements of the legislation of the Republic of Kazakhstan on transfer pricing when controlling fulfillment of the tax obligations for the value-added tax in importing goods to the territory of the Republic of Kazakhstan from the territory of the member-states of the Customs Union.

A taxpayer shall personally adjust the amount of the taxable import taking into account the mentioned-above order, established by the Government of the Republic of Kazakhstan and the requirements of the legislation of the Republic of Kazakhstan on transfer pricing.

**Footnote. Article 276-8 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2010).**

#### **Article 276-9. Determination of the amount of the taxable turnover on realization of works, services**

Unless otherwise provided by this Chapter, the amount of the taxable turnover on realization of works, services shall be determined in accordance with Article 238 and 241 of this Code.

#### **Article 276-10. Export of goods in the Customs Union**

1. The zero rate of the value-added tax shall be applied when exporting goods from the territory of the Republic of Kazakhstan to the territory of other member-state of the Customs Union.



Unless otherwise provided by this Chapter, a payer of the value-added tax shall have the right to attribute the added value tax to the set-off in accordance with Chapter 34 of this Code when exporting goods from the territory of the Republic of Kazakhstan to the territory of other member-state of the Customs Union.

2. The provisions of this Article shall also be applied to the goods, which are the results of execution of works under production contracts, exported from the territory of the Republic of Kazakhstan, in the territory of which the production works were executed, to the territory of other member-state of the Customs Union. These goods shall not include the goods which are the results of processing works on customer-supplied raw materials.

3. The zero rate of the value-added tax shall be applied when exporting goods (objects of leasing) from the territory of the Republic of Kazakhstan to the territory of other member-state of the Customs Union under a leasing agreement (contract) which provides transfer of the ownership right for it to a lessee, under an agreement (contract) , providing a loan in the form of objects, under an agreement (contract) on production of goods.

#### **Article 276-11. Confirmation of export of goods**

The documents, confirming export of goods are as follows:

1) the agreements (contracts), taking into account the adjustments, additions and attachments to them (hereinafter - agreements (contracts), on the basis of which the goods are imported, and in case of leasing of goods and provision of a loan in the form of objects - the agreements (contracts) of leasing, the agreements (contracts) providing a loan in the form of objects, the agreements (contracts) on production of goods);

2) an application on import of goods and payment of indirect taxes (in a paper format with a mark of a tax body of a member-state of the Customs Union, to the territory of which the goods were imported, on payment of indirect taxes (exemption or other order of fulfillment of the tax obligations) (hereinafter - an application on import of goods and payments of indirect taxes);

3) the copies of the shipping documents, confirming transportation of goods from the territory of one state of the Customs Union to the territory of other member-state of the Customs Union.

In case of export of goods via a system of pipelines or by power lines, a delivery and an acceptance act shall be submitted instead of the copies of the shipping documents;

4) the documents, confirming receipt of currency earnings on bank accounts of a taxpayer in the second-tier banks in the territory of the Republic of Kazakhstan, opened in the order, established by the legislation of the Republic of Kazakhstan.

In case of export of goods under the foreign trade commodity exchange (barter) transactions, provision of a loan in the form of objects when determining the amount of the value-added tax, subjected to refund, the presence of an agreement (contract) and the documents, confirming import of the goods, received by a tax payer under the specified operations should be taken into account.

In case of import of goods under a leasing agreement (contract) which provides transfer of the ownership right for them to a lessee, a payer of the value-added tax shall submit the documents, confirming receipt of a lease payment on its bank accounts in the second-tier banks in the territory of the Republic of Kazakhstan, opened in the order, established by the legislation of the Republic of Kazakhstan in the part of repayment of the primary cost of the goods (objects of leasing);

5) confirmation of an authorized state body in the field of protection of the intellectual property rights, on the right for an object of intellectual property and its cost - in case of export of the object of intellectual property.

1. In case of realization in the territory of the Customs Union member-states of products of processing of customer-supplied raw materials, previously exported from the territory of the Republic of Kazakhstan to the territory of the member-states of the Customs Union for processing, the confirmation of export of the goods shall be performed on the basis of the following documents:

- 1) the agreements (contracts) on processing of customer-supplied raw materials;
- 2) the agreements (contracts), on the basis of which the goods are exported;
- 3) the documents, confirming execution of works on processing of customer-supplied raw materials;
- 4) the copies of the shipping documents, confirming export of customer-supplied raw materials from the territory of the Republic of Kazakhstan to the territory of other member-state of the Customs Union.

In case of export of customer-supplied raw materials via a system of pipelines or through power lines, a delivery and an acceptance act shall be submitted instead of the copies of the shipping documents;

5) an application on import of goods and payment of indirect taxes (in a paper format with a mark of a tax body of a member-state of the Customs Union, to the territory of which the products of processing on payment of indirect taxes were imported (exemption or other order of fulfillment of the tax obligations);

6) the copies of the shipping documents, confirming export of products of processing from the territory of a member-state of the Customs Union.

If the products of processing are realized to a taxpayer of a member-state of the Customs Union, in the territory of which the works for processing of customer-supplied raw materials were executed, - the documents, confirming shipping of these products of procession.

In case of export of products of processing via a system of pipelines or power lines, the delivery and the acceptance act shall be submitted instead of the copies of the shipping documents;

7) the documents, confirming receipt of currency earnings on the banks accounts of a taxpayer in the second-tier banks in the territory of the Republic of Kazakhstan, opened in the order, established by the legislation of the Republic of Kazakhstan.

In case of export of products of processing by foreign trade commodity exchange (barter) transactions when determining the amounts of the value-added tax, subjected to refund, the presence of an agreement (contract) and the documents, confirming import of goods, received under the specified operation shall be taken into account.

2. In case of further export of products of processing of customer-supplied raw materials, previously exported from the territory of the Republic of Kazakhstan to the territory of other member-state of the Customs Union to the territory of a state which is not a member of the Customs Union, except cases, provided by paragraph 1-2 of Article 245 of Code, a confirmation of export of the products of processing shall be conducted on the basis of the following documents:

1) the agreements (contracts) on processing of customer-supplied raw materials;

2) the agreements (contracts), on the basis of which the products of processing were exported;

3) the documents, confirming execution of works on processing of customer-supplied raw materials;

4) the copies of the shipping documents, confirming export of customer-supplied raw materials from the territory of the Republic of Kazakhstan to the territory of a member-state of the Customs Union.

In case of export of customer-supplied raw materials through a system of pipelines or power lines, the delivery and the acceptance act of goods shall be submitted instead of the copies of the shipping documents;

5) the copies of the shipping documents, confirming export of the products of processing outside the Customs Union.

In case of export of products of processing via a system of pipelines and power lines, the delivery and the acceptance act shall be submitted instead of the shipping documents;

6) the cargo customs declaration with marks of a customs body of a member-state of the Customs Union releasing the goods in the customs procedure of export and with stamp of a customs body of a member-state of the Customs Union, located in the checkpoint on the customs border of the Customs Union, except for the cases, specified in sub-paragraph 7) of this Article;

7) the full cargo customs declaration with Footnotes of a customs body of a member-state of the Customs Union, which performed the customs declaring in the following cases when:

taking out goods in the customs procedure of export via a system of pipelines or power lines;

taking out goods in the customs procedure of export with application of the procedure of periodical declaring;

taking out of goods in the customs procedure of export with application of the procedure of temporary declaring;

8) the documents, confirming receipt of currency earnings on the bank accounts of a taxpayer in the second-tier banks in the territory of the Republic of Kazakhstan, opened in the order, established by the legislation of the Republic of Kazakhstan.

3. In case of export of products of processing on foreign trade commodity exchange (barter) transactions when determining the amount of the value-added tax, subjected to refund, the presence of an agreement (contract) and the documents, confirming import of the goods, received under the specified operation shall be taken into account.

**Footnote. Article 276-11 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2010); dated 22.06.2012 No. 21-V (shall be enforced from 01.01.2011).**

#### **Article 276-12. Taxation of international transportations in the Customs Union**

1. Unless otherwise provided by this Article, taxation of the international transportations in the Customs Union shall be performed in accordance with Article 244 of this Code.

2. Transportation of the exported or imported goods via a system of pipelines in the Customs Union shall be recognized as international, if formalization of the transportation is performed by the documents, confirming transfer of the exported and imported goods to a buyer or to other persons, who performs further delivery of the specified goods to the buyer in the territory of the Customs Union.

3. For the purposes of paragraph 2 of this Article, the confirming documents are:

1) in case of export, a copy of an application on import of the goods and payment of the indirect taxes, received by an exporter from an importer of the goods;

2) in case of import, a copy of an application on import and payment of indirect taxes, received from a taxpayer who imported the goods to the territory of the Republic of Kazakhstan;

3) the acts of executed works, acts of delivery and acceptance of cargoes from a seller or from other persons, who previously delivered the specified cargoes to a buyer or to other persons, who perform further delivery of the specified goods;

4) invoices;

4. Transportation of cargoes through a system of pipelines from the territory of one of member-state of the Customs Union to the territory of the same or other member-state of the Customs Union through the territory of the Republic of Kazakhstan shall be recognized as international, if formalization of the transportation is made with the following documents:

1) the acts of execution of works, acts of delivery and acceptance of cargoes from a seller or from other persons, who previously delivered the specified goods to a buyer or other persons who perform further delivery of the specified goods;

2) invoices.

**Footnote. Article 276-12 as amended by the Law of the Republic of Kazakhstan dated 09.01.2012 No. 535-IV (shall be enforced from 01.01.2012).**

**Article 276-13. Taxation of works on processing of customer-supplied raw materials in the Customs Union**

1. Works on processing of customer-supplied raw materials, imported to the territory of the Republic of Kazakhstan from the territory of other member-states of the Customs Union with further export of products of processing to the territory of other state, shall be taxable by the value-added tax at the zero rate, when observing the conditions of the goods' processing and the term of processing of the customer-supplied raw materials, provided by paragraph 7 of this Article and Article 276-14 of this Code.

2. If a taxpayer of the Republic of Kazakhstan executes works on processing of customer-supplied raw materials, imported to the territory of the Republic of Kazakhstan from the territory of a member-state of the Customs Union with further export of the products of processing to the territory of the same member-state of the Customs Union, the confirmation of the fact of execution of works on processing of the customer-supplied raw materials by the taxpayer of the Republic of Kazakhstan shall be:

1) the agreements (contract), concluded between the taxpayers of the Customs Union member-states;

2) the documents, confirming execution of works on processing of customer-supplied raw materials;

3) the documents, confirming import of customer-supplied raw materials to the territory of the Republic of Kazakhstan (including the obligation for import (export) of products of processing);

4) the documents, confirming export of products of processing from the territory of the Republic of Kazakhstan (including fulfillment of the obligation for import (export) of products of processing);

5) an application on import of goods and payment of indirect taxes, which confirms payment of the value-added tax from the cost of works in processing of customer-supplied raw materials;

6) the documents, defined by paragraph 4 of Article 635 of this Code, confirming receipt of currency earnings on bank accounts of a taxpayer in the second-tier banks in the territory of the Republic of Kazakhstan, opened in the order, established by the legislation of the Republic of Kazakhstan;

7) the conclusion of the appropriate state body on conditions of processing of goods.

3. If a taxpayer of the Republic of Kazakhstan executes works on processing customer-supplied raw materials, imported to the territory of the Republic of Kazakhstan from the territory of one of the member-states of the Customs Union with further realization of products of processing to the territory of another member-state of the Customs Union, the taxpayer of the Republic of Kazakhstan shall submit the following documents to confirm execution of the works on processing of the customer-supplied raw materials:

1) the agreements (contracts) on processing of customer-supplied raw materials, on supply of the finished goods, concluded between the taxpayers of the Customs Union member-state;

2) the documents, confirming execution of works on processing of customer-supplied raw materials;

3) the acts of delivery and acceptance of customer-supplied raw materials and the finished products;

4) the documents, confirming import of customer-supplied raw materials to the territory of the Republic of Kazakhstan (including the obligation for import (export) of products of processing;

5) the documents, confirming import of products of processing from the territory of the Republic of Kazakhstan (including fulfillment of the obligation for import (export) of products of processing);

6) an application on import of goods and payment of indirect taxes, confirming payment of the value-added tax from the cost of works on processing of customer-supplied raw materials, received from an owner of the customer-supplied raw materials;

7) the conclusion of the appropriate authorized body on conditions of processing of goods.

4. If a taxpayer of the Republic of Kazakhstan executes works on processing of customer-supplied raw materials, imported to the territory of the Republic of Kazakhstan from the territory of one of member-states of the Customs Union with further realization of products of processing to the territory of a state which is not a

member of the Customs Union, the taxpayer of the Republic of Kazakhstan shall submit the following documents to confirm execution of works on processing of customer-supplied raw materials:

1) the agreements (contracts), concluded between the taxpayers of the Customs Union member-states;

2) the documents, confirming execution of works on processing of customer-supplied raw materials;

3) the documents, confirming import of customer-supplied raw materials to the territory of the Republic of Kazakhstan (including the obligation for import (export) of products of processing);

4) the documents, confirming export of products of processing from the territory of the Republic of Kazakhstan (including fulfillment of the obligation for import (export) of products of processing);

5) a copy of the cargo customs declaration, formalized when taking out goods to the territory of a state which is not a member of the Customs Union in the customs procedure of export, formalized by a customs body of a member-state of the Customs Union, which performed the customs declaring;

6) the documents, provided by paragraph 4 of Article 635 of this Code, confirming receipt of currency earnings on bank accounts of a taxpayer in the second-tier banks in the territory of the Republic of Kazakhstan, opened in the order, established by the legislation of the Republic of Kazakhstan;

7) the conclusion of the appropriate authorized state body on conditions of the goods processing.

5. Works on processing of customer-supplied raw materials, imported to the territory of the Republic of Kazakhstan from the territory of other member-state of the Customs Union with further realization of products of processing in the territory of the Republic of Kazakhstan, shall be taxable by the value-added tax at the rate, established by paragraph 1 of Article 268 of this Code.

6. In case of importing (exporting) the customer-supplied raw materials to processing, a taxpayer of the Republic of Kazakhstan shall provide the obligation for export (import) of products of processing and its fulfillment in the order, in the form and within the deadlines, approved by the Government of the Republic of Kazakhstan.

7. Processing of customer-supplied raw materials shall meet the conditions of the goods' processing, established by the Government of the Republic of Kazakhstan.

8. The conclusion of the appropriate authorized state body on conditions of the goods' processing shall contain the following information:

1) the name,ification of goods and products of processing in accordance with the single commodity nomenclature of the foreign economic activities, their number and cost;

2) the date and number of an agreement (contract) for processing, the period of processing;

3) the norms of output of derivatives;

4) the nature of processing;

5) information on a person, who performs processing.

9. Replacement of products of processing with the goods previously produced by a processor at the motivated request of a person with the permission of a tax body shall be allowed, if they are identical in description, quantity, value, quality and technical characteristics to the products of processing.

**Footnote. Article 276-13 as amended by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012).**

#### **Article 276-14. The period of processing of customer-supplied raw materials**

1. The period of processing of customer-supplied raw materials, exported from the territory of the Republic of Kazakhstan to the territory of a member-state of the Customs Union and imported to the territory of the Republic of Kazakhstan from the territory of the member-states of the Customs Union, shall be determined in accordance with the conditions of an agreement (contract) on processing of the customer-supplied raw materials and cannot exceed two years from the date of the accounting and (or) shipping of the customer-supplied raw materials.

2. In case of excess of the period, established in paragraph 1 of this Article, the customer-supplied raw materials, imported for processing to the territory of the Republic of Kazakhstan, shall be recognized as the taxable import and shall be subjected to taxation by the value-added tax from the date of import of the goods to the territory of the Republic of Kazakhstan in accordance with this Chapter for the purposes of taxation.

3. In case of excess of the period, established in paragraph 1 of this Article, the customer-supplied raw materials imported for processing to the territory of the Republic of Kazakhstan shall be recognized as the taxable turnover on realization and shall be taxable by the value-added tax from the date of export of the goods from the territory of the Republic of Kazakhstan at the rate, established by paragraph 1 of Article 268 of this Code for the purposes of taxation, except as provided in paragraph 1 -2 of Article 245 of this Code, and paragraphs 2 and 3 of Article 276-11 of the Code.

For the purpose of this paragraph, the amount of taxable turnover on tolling raw materials, which come to not imported back to the territory of the Republic of Kazakhstan on time, the amount of raw material of processed products is defined in the value of raw materials included in the cost of refined products on the basis of the



accounting policies, developed in accordance with International Financial Reporting Standards and the requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting.

For the purposes of this article, the method of determining the cost, established in the accounting policy of the taxpayer, is not a subject to changes during the calendar year.

**Footnote. Article 276-14 as amended by the Law of the Republic of Kazakhstan dated 22.06.2012 No. 21-V (shall be enforced from 01.01.2011)**

**Article 276-15. Turnovers and import, exempted from the value-added tax in the Customs Union**

1. Turnovers on realization shall be exempted from the value-added tax from the following:

1) works, services, specified in Chapter 33 of this Code, if a place of their realization is the Republic of Kazakhstan;

2) services for repairation of goods, imported to the territory of the Republic of Kazakhstan from the territory of the member-states of the Customs Union, including their restoration, replacement of parts.

The documents, confirming provision of the services, specified in this sub-paragraph shall be the documents, defined by paragraph 3 of Article 276-5 of this Code.

The list of the services, specified in this sub-paragraph shall be approved by the Government of the Republic of Kazakhstan;

3) *excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).*

2. Import of the goods, provided by sub-paragraphs 1), 3) - 12) of paragraph 1 of Article 255 of this Code shall be exempted from the value-added tax.

The order of exemption from the value-added tax of import of the goods in the frames of the Custom Union, specified in the first part of this paragraph, shall be determined by the Government of the Republic of Kazakhstan.

3. Temporary import to the territory of the Republic of Kazakhstan of the goods, provided by the list, approved by the Government of the Republic of Kazakhstan, shall be exempted from a value-added tax in the order, in the form and within the deadlines, specified by the Government of the Republic of Kazakhstan.

For the purposes of the first part, temporary import of goods to the territory of the Republic of Kazakhstan from the territory of the member-states of the Customs Union, shall mean import of the goods, including vehicles, to the territory of the Republic of Kazakhstan without changing properties and characteristics of the imported goods.

Certain taxpayers shall have an obligation to export from the territory of the Republic of Kazakhstan the temporarily imported goods, vehicles in the form, in the order and within the deadlines, established by the Government of the Republic of Kazakhstan.

The period of temporary import of goods shall be determined by a person, who performs the temporary import of goods in accordance with the aims and circumstances of this import but cannot exceed two years from the date of provision of the obligation for further export from the territory of the Republic of Kazakhstan of these temporarily imported goods, except for the persons, specified in Paragraph nine of sub-paragraph 2) of Article 276-2 of this Code.

Fulfillment of the tax obligation for the value-added tax by the nonresident legal entities, working without forming a permanent establishment, in the temporary import of goods which are not provided by the specified list to the territory of the Republic of Kazakhstan, shall be performed in the order, in the form and within the deadlines, defined by the Government of the Republic of Kazakhstan.

In case of failure to import goods which are temporarily imported to the territory of the Republic of Kazakhstan, the value-added tax for which was paid when importing, this import of goods for the purposes of taxation shall be recognized as the taxable import and shall be subjected to taxation by the value-added tax from the date of the import of the goods to the territory of the Republic of Kazakhstan at the rate, defined by paragraph 1 of Article 268 of this Code.

4. In case of use of goods previously imported to the territory of the Republic of Kazakhstan for the purposes which differ from those, in connection with which the exemption from the value-added tax on import was provided in accordance with the legislation of the Republic of Kazakhstan, the value-added on import of these goods shall be paid on the last date of the period, established by this Code for payment of the value-added tax when importing goods.

5. Remuneration which is paid by a lessee - taxpayer of the Republic of Kazakhstan to a lessor of other member-state of the Customs Union under a leasing agreement shall be exempted from the value-added tax.

**Footnote. Article 276-15 as amended by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).**

#### **Article 276-16. The order of offsetting the amount of the value-added tax in the Customs Union**

1. Unless otherwise provided by this Article, the value-added tax shall be offset in the order, established by Article 34 of this Code.

2. The amount of the value-added tax for the imported goods, paid in the established order to the budget of the Republic of Kazakhstan, shall be attributed to the set-off within the calculated and (or) accrued taxes when importing the goods to the territory of the Republic of Kazakhstan from the territory of the member-states of the Customs Union.

The amount of the value-added tax, attributable to the set-off when importing goods under a leasing agreement (contract) shall be the amount of the value-added tax, paid to the budget but no more than the amount of the value-added tax, falling on the amount of the taxable import for a tax period, determinable in accordance with paragraph 6 of Article 276-8 of this Code. The amounts of the value-added tax, charged (calculated) for the previous tax period and paid, including via performing the set-off in the order, established by Articles 599 and 601 of this Code within the current tax period, shall be attributed to the set-off within the current tax period.

3. The amount of the offset value-added tax paid to a lessor - taxpayer of the Republic of Kazakhstan shall be determined in the part, falling on the cost of goods (objects of leasing) on the received leasing payment without accounting remuneration when transferring the goods (objects of leasing) to the leasing, receivable by a lessee - taxpayer of other member-state of the Customs Union.

#### **Article 276-17. invoice**

1. The order of issuance of invoices shall be determined in accordance with Chapter 35 of this Code, unless otherwise provided by this Article.

2. In case of export of goods from the territory of the Republic of Kazakhstan to the territory of other member-state of the Customs Union, an invoice shall be issued not earlier than the date of the turnover and no later than five calendar days after the date of the turnover on realization of the goods.

3. In case of execution of works on processing of customer-supplied raw materials, imported to the territory of the Republic of Kazakhstan from the territory of other member-state of the Customs Union with further export of products of processing to the territory of another state, an invoice shall be issued on the date of signing of the document, confirming execution of the works on processing of the customer-supplied raw materials.

4. An invoice, issued in the cases, specified in paragraphs 2 and 3 of this Article must meet the requirement, set by paragraph 5 of Article 263 of this Code and shall reflect:

- 1) the date of the turnover on realization;
- 2) INT/RCR - the identity number of a taxpayer/ the reason code of the registration - buyer from the Russian Federation;
- 3) ANP - the accession number of a payer - buyer from the Republic of Belarus.

5. An invoice shall be issued on the date of each leasing payment without accounting remuneration in the amount of a part of the primary cost of goods (an object of leasing), specified by a leasing agreement but no less than the amount of the actually received payment when a lessor-taxpayer transfers the goods (objects of leasing) to the leasing, which are receivable by a lessee-taxpayer of other member-state of the Customs Union.

The amount of remuneration of a lessor-taxpayer of the Republic of Kazakhstan must be singled out by a separate line.

#### **Article 276-18. Specifics of determination of payers of the value-added tax when importing goods**

1. If the goods are purchased by a taxpayer of the Republic of Kazakhstan under an agreement (contract) with a taxpayer of other member-state of the Customs Union, the payment of the value-added tax shall be made by the taxpayer of the Republic of Kazakhstan, to the territory of which the goods are imported, - owner of the goods or broker, attorney (operator).

For the purposes of this Chapter, an owner of goods shall mean a person who has the ownership right for goods or transfer of the ownership right to whom is provided by an agreement (contract).

2. In case if the goods are purchased by a taxpayer of the Republic of Kazakhstan under an agreement (contract) with a taxpayer of other member-state of the Customs Union and the goods are imported from the territory of a third member-state of the Customs Union, the value-added tax shall be paid by the taxpayer of the Republic of Kazakhstan, to the territory of which the goods are imported, - owner of the goods.

3. If the goods are realized by a taxpayer of the of member-states of the Customs Union under a contract of commission, agency to a taxpayer of the Republic of Kazakhstan and imported from the territory of a third member-state of the Customs Union, the payment of the value-added tax shall be made by the taxpayer of the Republic of Kazakhstan, to the territory of which the goods are imported, - a broker, an attorney.

4. If a taxpayer of the Republic of Kazakhstan purchases the goods previously imported to the territory of the Republic of Kazakhstan by a taxpayer of other member-state of the Customs Union, for which the payment of the value-added tax is performed by the taxpayer of the Republic of Kazakhstan, an owner of the goods or a broker, attorney (operator), in the exhibition and a fair trade, organized by other taxpayer of the Republic of Kazakhstan, unless otherwise provided by this paragraph.

Payment of the value-added tax shall be performed by an owner of goods when having agreements (contracts) with a nonresident for their buying and selling when a taxpayer of the Republic of Kazakhstan purchases goods previously imported to the

territory of the Republic of Kazakhstan from the territory of the member-states of the Customs Union, for which the value-added tax was not paid, on the exhibition and fair trade.

If there are no agreements (contracts) on buying and selling of the goods, the payment of the value-added tax for these goods shall be made by a taxpayer of the Republic of Kazakhstan who organized the exhibition and fair trade.

A taxpayer of the Republic of Kazakhstan who organizes the exhibition and fair trade shall to inform in a written form the tax body at the location on this trade within ten working days before its beginning with attachment of the list of participants of the trade from the member-states of the Customs Union.

The order of the control over payment of the value-added tax for the exhibition and fair trade shall be determined by the Government of the Republic of Kazakhstan.

5. If the goods are purchased under an agreement between a taxpayer of the Republic of Kazakhstan and a taxpayer of a state which is not a member of the Customs Union and the goods are imported from the territory of other member-state of the Customs Union, the value-added tax shall be paid by the taxpayer of the Republic of Kazakhstan, to the territory of which the goods are imported, - owner of the goods or a broker, attorney (operator).

**Footnote. Article 276-18 as amended by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012).**

**Article 276-19. Specifics of calculation of the value-added tax when importing goods to the territory of the Republic of Kazakhstan under the contracts of commission, agency in the Customs Union**

1. The obligation to calculate and transfer the value-added tax on the imported goods, shall be entrusted to a broker (attorney) when importing the goods to the territory of the Republic of Kazakhstan by a broker (attorney) under a commission (agency) contract.

The amounts of the value-added tax, paid by a broker (attorney) for the goods, imported to the territory of the Republic of Kazakhstan, shall be attributable to the set-off by a buyer of these goods on the basis of an invoice, put by the broker (attorney) to the address of the buyer and a copy of the declaration for the indirect taxes for the imported goods and a copy of an application on import of the goods and payment of the indirect taxes, containing the Footnote of a tax body, provided by paragraph 7 of Article 276-20 of this Code.

2. Realization of goods, execution of works and provision of services by a broker on his own behalf and at the expense of a principal, shall not be the turnover on realization of the broker.

3. Realization of goods, execution of works or provision of services by an attorney on behalf and at the expense of a principal shall not be the turnover on realization of the attorney.

4. Issuance of invoices on the goods, imported to the territory of the Republic of Kazakhstan under the commission (agency) contracts, concluded between a principal - taxpayer of a member-state of the Customs Union and a broker (attorney) - taxpayer of the Republic of Kazakhstan who realizes the goods in the territory of the Republic of Kazakhstan shall be performed by the broker (attorney). An invoice shall be issued with specification of the status of a supplier - "broker" ("attorney").

An invoice, issued by a broker (attorney) to a buyer shall specify the details, established by sub-paragraphs 1) - 6) of paragraph 5 of Article 263 of this Code, the cost of goods without the value-added tax and the number and the date of an application on import of the goods and payment of the indirect taxes, attached to the invoice.

The amount of the value-added tax, paid by a broker (attorney) for the imported goods shall be singled out in a separate line in an invoice.

A copy of an application, received from a broker (attorney) on import of goods and payment of indirect taxes for the imported goods, which is the basis for attribution to the set-off of the value-added tax, paid when importing the goods by the broker (attorney), shall be attached to this invoice.

The value-added tax for the imported goods, paid by a broker (attorney) when importing the goods to the territory of the Republic of Kazakhstan shall not be attributable to the set-off by the broker (attorney).

5. The date of the taxable import when importing goods to the territory of the Republic of Kazakhstan under the commission (agency) contracts shall be the date of accounting of the imported goods by a broker (attorney).

For the purposes of this paragraph, the date of accounting shall be the date of composing the primary document, composed by a principal to the address of a broker (attorney), which confirms transfer of the goods.

6. The amount of the taxable turnover of a broker (attorney) shall be determined on the basis of remuneration when realizing goods, executing works, provision of services under the conditions, meeting the conditions of a commission (agency) contract.

#### **Article 276-20. The order of calculation and payment of the value-added tax in the Customs Union**

1. Unless otherwise provided by this Article, the order of calculation and payment of the value-added tax in the Customs Union shall be determined in accordance with Chapter 36 of this Code.

2. A payer of the value-added tax shall to submit together with the declaration for the value-added tax, provided by Article 270 of this Code, taking into account the provision of paragraph 1 of Article 276-21 of this Code, the following documents when exporting the goods to the Customs Union member-states or executing works on processing of customer-supplied raw materials:

1) an application on import of goods and payment of indirect taxes, received from a taxpayer of a member-state of the Customs Union, which imported the goods (including products of processing of customer-supplied raw materials).

In case of export of the excisable goods, the additional copy of the application on import of goods and payment of indirect taxes shall be submitted;

2) the register of invoices on goods, realized to the member-states of the Customs Union within a tax period or executed works on processing of customer-supplied raw materials which is attached to the declaration for the value-added tax. The forms of the registers of invoices on the goods, realized to the Customs Union member-states within a tax period or the executed works on processing of customer-supplied raw materials, shall be determined by the Government of the Republic of Kazakhstan.

3. A taxpayer shall to submit the declaration for indirect taxes for the imported goods, including those under leasing agreement (contracts), to a tax body at the location (place of residence) no later than the 20th of the month following a tax period when importing goods, including the goods which are the products of processing of customer-supplied raw materials, to the territory of the Republic of Kazakhstan from the territory of the Customs Union member-states, unless otherwise provided by this paragraph.

A taxpayer shall submit the following documents to a tax body along with the declaration for indirect taxes for the imported goods:

1) an application (applications) on import and payment of indirect taxes in a paper (in quadruplicate) and in electronic formats.

The form of the application on import and payment of indirect taxes, the rules of its filling and submission shall be approved by the Government of the Republic of Kazakhstan;

2) a bank statement, confirming the actual payment of indirect taxes for the imported goods and (or) other payment document, provided by the bank legislation of the Republic of Kazakhstan, confirming fulfillment of the tax obligation to pay the indirect taxes for the imported goods or other document, issued by an authorized body, confirming provision to a taxpayer of the right to change the deadline for the tax payment or the documents, confirming exemption from the value-added tax, taking into account the requirements of Article 276-15 of this Code.

The specified documents shall not be submitted in other order of payment of the value-added tax and in case of presence of overpayment on personal accounts for the

value-added tax for the imported goods, subjected to the set-off against future payments on the value-added tax for the imported goods, provided that a taxpayer did not submit an application on the set-off of the specified amount of overpayment on others of taxes and payments or refund on a settlement account.

The documents, specified in this sub-paragraph shall be submitted within the period , established in this paragraph on the deadline of a leasing payment, provided by a leasing agreement falling on the reporting tax period under the leasing agreements ( contracts);

3) the shipping documents, confirming movement of goods from the territory of a member-state of the Customs Union to the territory of the Republic of Kazakhstan.

The specified documents shall not be submitted if formalization of these documents is not provided by the legislation of the Republic of Kazakhstan for certain movement of goods.

4) the invoices, formalized in accordance with the legislation of a member-state of the Customs Union when shipping goods if their nomination (excerpt) is provided by the legislation of a member-state of the Customs Union;

5) the agreements (contracts), on the basis of which these goods were purchased, imported to the territory of the Republic of Kazakhstan from the territory of a member-state of the Customs Union, in case of leasing of goods (objects of leasing) - the leasing agreements (contracts), in case of provision of a loan in the form of objects - the loan agreements, the agreements (contracts) on production of goods, the agreements (contracts) on processing of customer-supplied raw materials;

6) an informational message (in the cases provided by paragraphs 2 - 5 of Article 276-18 of this Code), submitted to a taxpayer of the Republic of Kazakhstan by a taxpayer of other member-state of the Customs Union or by a taxpayer of a state which is not a member of the Customs Union (signed by the head (individual entrepreneur) and sealed by the stamp of an organization), which realizes goods, imported from the territory of a third member-state of the Customs Union on the following information on a taxpayer of the third member-state of the Customs Union and an agreement (contract) , concluded with the taxpayer of the third member-state of the Customs Union on purchase of the imported goods:

the number, identifying a person as a taxpayer of a member-state of the Customs Union;

the full name of the taxpayer (organization (individual entrepreneur) of a member-state of the Customs Union;

the location (a place of residence) of the taxpayer of a member-state of the Customs Union;

the number and the date of the contract;

the number and the date of the specification.



In case if a taxpayer of a member-state of the Customs Union, from which the goods were purchased, is not an owner of the realized goods (is a broker, attorney), the information specified in the second - sixth sub-paragraphs of this paragraph shall be also submitted to the owner of the realized goods.

In case of submission of an informational message in a foreign language it is necessary to have its translation into Kazakh and Russian languages.

An informational message shall not be submitted if the information, provided by this sub-paragraph is contained in the agreement (contract), specified in sub-paragraph 5) of this paragraph;

7) the agreements (contracts) of commission or agency (in cases of their conclusion );

8) the agreements (contracts), on the basis of which the goods were purchased, imported to the territory of the Republic of Kazakhstan from the territory of other member-state of the Customs Union under the agreements of commission or agency (in the cases provided by paragraph 2 and 3 of Article 276-18 of this Code, except for the cases when the value-added tax is paid by a broker, attorney).

In case of retail sales when there are no documents, specified in sub-paragraphs 3) - 5) of this paragraph, the documents, confirming receipt (or purchase) of the imported goods to the territory of the Republic of Kazakhstan (including checks of cash register machines, receipts, purchase acts) shall be submitted.

The documents, specified in sub-paragraphs 2) - 8) of this paragraph can be submitted in the copies, certified by the signatures of the head and the general accountant (if there is one) of other persons, authorized for it under the decision of a taxpayer and by the stamp of the taxpayer, except for cases when the taxpayer does not have the stamp on the grounds, provided by the legislation of the Republic of Kazakhstan.

The specified documents can be submitted in the form of a book (books) laced, numbered with specification on the last sheet of the total number of sheets and certified on the last sheet by the signatures of the head and the general accountant (if there is one) of other persons, authorized for it by the decision of a taxpayer and by the stamp of the taxpayer, except for cases when the taxpayer does not have the stamp on the grounds, provided by the legislation of the Republic of Kazakhstan.

A taxpayer shall submit the documents to a tax body no later than the 20th of the month following a tax period - the month of accounting of the imported goods (objects of leasing) along with the declaration for the indirect taxes, provided by sub-paragraphs 1) - 8) of this paragraph under the leasing agreements (contracts). Later , the taxpayer shall submit the documents (their copies), specified by sub-paragraphs 1)

and 2) of this paragraph along with the declaration for the indirect taxes for the imported goods to a tax body no later than the 20th of the month following a tax period - the month of the deadline for payment, set by a leasing agreement (contract)..

If the maturity date of payment of a part of the cost of goods (objects of leasing), provided in a leasing agreement (contract) comes after the import of the goods (objects of leasing) to the territory of the Republic of Kazakhstan, a taxpayer shall submit to a tax body no later than the 20th of the month following a tax period - the month of accounting the imported goods (objects of leasing), the declaration for the indirect taxes for the imported goods along with the documents, provided by sub-paragraphs 1), 3) - 5) of this paragraph. The taxpayer shall not reflect the tax base for the value-added tax in the declaration for the indirect taxes for the imported goods and an application on import of goods and payment of the indirect taxes.

If a leasing agreement (contract) establishes the maturity date of payment of a part of the cost of goods (objects of leasing) before the date of import of the goods (objects of leasing) to the territory of the Republic of Kazakhstan, a taxpayer shall submit to a tax body no later than the 20th of the month following a tax period - the month of accounting of the imported goods (objects of leasing), the declaration for the indirect taxes for the imported goods along with the documents, provided by sub-paragraphs 1) - 5) of this paragraph.

Later, a taxpayer shall submit to a tax body no later than the 20th of the month following a tax period - the month of the deadline of payments provided by a leasing agreement (contract), the declaration for the indirect taxes for the imported goods along with the documents (their copies), provided by sub-paragraphs 1) and 2) of this paragraph.

4. The value-added tax for the imported goods shall be paid at the location (a place of residence) of the taxpayers no later than the 20th of the month following a tax period.

The amount of the indirect taxes, calculated for payment under the declaration for the indirect taxes for the imported goods, shall correspond with the amount of the indirect taxes, calculated in an application (applications) on import of goods and payment of the indirect taxes.

5. The declaration for the indirect taxes for the imported goods and an application on import of goods and payment of the indirect taxes shall be submitted by taxpayers in a paper and in electronic format.

The form of the declaration for the indirect taxes for the imported goods, the rules of its composition and submission shall be approved by the Government of the Republic of Kazakhstan.

A tax period for calculation and payment of indirect taxes when importing the goods, including the goods which are the products of processing of customer-supplied

raw materials, the goods (objects of leasing) under the leasing agreements (contracts), to the territory of the Republic of Kazakhstan from the territory of the member-states of the Customs Union, shall be a calendar month, in which these imported goods were accounted (the deadline of payment, defined by the leasing agreement (contract), comes).

The fulfillment of the tax obligation within a tax period shall be allowed.

6. The declaration for indirect taxes for the imported goods shall be recognized as failed to be submitted to the tax bodies in the cases, specified in paragraph 5 of Article 584 of this Code and in case of failure to submit the documents, specified in sub-paragraph 1) of the second part of paragraph 3 of this Article.

7. Confirmation by tax bodies of the fact of payment of the value-added tax for the imported goods in an application on import of goods and payment of indirect taxes by putting the appropriate Footnote or the motivated refusal to confirm, shall be performed in the cases and in the order, specified by the Government of the Republic of Kazakhstan.

Putting of the specified Footnote shall not be made and the motivated refusal shall be submitted in failure to fulfill the tax obligation for payment of the amounts of the indirect taxes, calculated in the declaration for the indirect taxes for the imported goods and in case of failure to fulfill the conditions of the second part of paragraph 4 of this Article.

**Footnote. Article 276-20 as amended by the Laws of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).**

**Article 276-21. The order of submission of an application on import of goods and payment of indirect taxes when exporting goods in the Customs Union**

1. An application on import of goods and payment of the indirect taxes, received by a taxpayer of the Republic of Kazakhstan from a taxpayer of a member-state of the Customs Union, who imports the goods (including the products of processing of customer-supplied raw materials) shall be submitted by the taxpayer of the Republic of Kazakhstan who exported the goods to the member-states of the Customs Union or executed works on processing of the customer-supplied raw materials in accordance with paragraph 2 of Article 276-20 of this Code.

A taxpayer have the right to submit an application on import of goods and payment of indirect taxes to a tax body within one hundred and eighty calendar days from the date of the turnover:

on realization of goods when exporting the goods;

on realization of works, services in case of execution of works on processing of customer-supplied raw materials.

2. When a taxpayer of the Republic of Kazakhstan who exported the goods to the member-states of the Customs Union or who executed works on processing of customer-supplied raw materials fails to submit the application on import of goods and payment of indirect taxes in a paper format within the deadline, established by paragraph 1 of this Article, the turnover on realization of goods when exporting goods or on realization of works, services in case of execution of works on processing of customer-supplied raw materials shall be subjected to taxation by the value-added tax at the rate, defined by paragraph 1 of Article 268 of this Code and payment to the budget on the deadline for payment for a tax period, on which the date of the turnover on realization falls.

Charge of the amounts of the value-added tax, specified in this paragraph shall be performed by a tax body in the order, established by an authorized body.

3. In case of untimely and incomplete payment of the value-added tax, calculated in accordance with paragraph 2 of this Article, a tax body shall apply the ways to ensure fulfillment of the untimely fulfilled tax obligation and measures of the obligatory levy in the order, determined by Articles 85 and 86 of this Code.

4. If a payer of the value-added tax fails to submit an application on import of goods and payment of the indirect taxes at the end of the deadline, established by paragraph 1 of this Article, the paid amounts of the value-added tax shall be attributable to the set-off and refund in accordance with Articles 599 and 602 of this Code.

The paid amounts of fines, charged in accordance with paragraph 3 of this Article, shall not be refundable.

#### **Article 276-22. Withdrawal of an application on import of goods and payment of indirect taxes when importing goods in the Customs Union**

1. An application on import of goods and payment of indirect taxes is subject to withdrawal from the tax service on the basis of a tax application of a taxpayer on withdrawal of the tax reporting, submitted to a tax body at the location (a place of residence) of the taxpayer.

2. A taxpayer have the right to submit a tax application, specified in paragraph 1 of this Article in the following cases:

1) withdrawal of the erroneously submitted application on import of goods and payment of indirect taxes;

2) making adjustments and additions to the application on import of goods and payment of indirect taxes, including those in the case, provided by paragraph 3 of Article 276-23 of this Code.

3. An application on import of goods and payment of indirect taxes shall be recognized as erroneously submitted if the obligation to submit the application is not provided by this Code.

4. Making adjustments and additions to an application on import of goods and payment of indirect taxes shall be performed by a taxpayer through withdrawal of the previously submitted application with simultaneous submission of a tax application.

5. *Excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).*

6. Together with making adjustments and additions to an application on import of goods and payment of indirect taxes, a taxpayer shall submit the additional declaration for the indirect taxes for the imported goods.

For the purposes of this Chapter, the additional declaration for indirect taxes for the imported goods, shall be the tax reporting, submitted by a person when making adjustments and (or) additions to the previously submitted tax reporting for the period, to which these adjustments and (or) additions on the indirect taxes for the imported goods, for which this person is a taxpayer, are related.

The additional declaration for the indirect taxes for the imported goods on the notification shall be the tax reporting, determined by a person when making adjustments and (or) additions to the previously submitted tax for the period, in which a tax body revealed violations upon the results of the in-house audit on the indirect taxes for the imported goods, for which this person is a taxpayer.

7. It is not be allowed for a taxpayer to make adjustments and additions to an application on import of goods and payment of indirect taxes of:

1) the audited tax period - in the period of the complex audits and thematic audits on the value-added tax and the excise taxes, specified in the directions to perform the tax audit;

2) the appealing tax period - in the period of the deadline for submission and consideration of the complaint for the notification on the results of the tax audit and (or ) the decision of a superior tax service body, made upon the results of consideration of the complaint for the notification, taking into account the restored period for submission of the complaint on the value-added tax and the excise taxes, specified in the complaint of a taxpayer.

8. The order of withdrawal of an application on import of goods and payment of indirect taxes shall be established by the Government of the Republic of Kazakhstan.

**Footnote. Article 276-22 as amended by the Laws of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).**

**Article 276-23. The order of adjustment of the amounts of the value-added tax, paid when importing goods**

1. In case of return of goods, imported to the territory of the Republic of Kazakhstan from the territory of the member-states of the Customs Union because of improper quality and (or) incompleteness before the expiry of the month, in which these goods were imported, reflection of these goods in the declaration for indirect taxes for the imported goods shall not be performed.

Confirmation of return of goods shall be the documents, provided by sub-paragraphs 1) - 3) of the second part of paragraph 3 of this Article. These documents shall be submitted by an importer along with the declaration for indirect taxes for the imported goods.

2. When returning the goods, specified in paragraph 1 of this Article after the expiry of the month, in which these goods were imported, the information on these goods shall be reflected in the additional declaration for indirect taxes for the imported goods.

3. In cases, specified in paragraphs 1 and 2 of this Article, a taxpayer shall to reflect the information on the imported goods (including the data on the goods, returned for the reasons of improper quality and (or) incompleteness) in an application on import of goods and payment of indirect taxes.

A taxpayer have the right to withdraw an application on import of goods and payment of indirect taxes and to submit the tax application on import of goods and payment of indirect taxes for the actually imported goods when submitting the following documents:

1) the complaint (act of acceptance) on the quantity, coordinated by a taxpayer-exporter and a taxpayer-importer;

2) the calculation (act) of an independent expertise, confirming improper quality and (or) incompleteness;

3) the confirmation of a competent tax body of a member-state of the Customs Union, from the territory of which the goods were exported, on making adjustment to the amount of the taxable turnover when exporting these goods by a taxpayer-exporter.

Tax service bodies shall submit the request on submission of the specified confirmation at the request of a taxpayer.

4. The following is not subject to taxation by the value-added tax:

1) loss of goods, suffered by a taxpayer within the norms of the natural loss, established by the legislation of the Republic of Kazakhstan;

2) damage of goods, occurred in the result of emergencies of natural or anthropogenic character.

For the purposes of this Article, loss of goods shall mean the event, as a result of which destruction and loss of goods occurred. Damage of goods shall mean deterioration of all or certain qualities (properties) of the goods, as a result of which these goods cannot be used for the purposes of the taxable turnover.

## **SECTION 9. EXCISE TAXES**

### **Chapter 38. GENERAL PROVISIONS**

#### **Article 277. Application of excise taxes**

The goods, produced in the territory of the Republic of Kazakhstan and imported to the territory of the Republic of Kazakhstan, specified in Article 279 of this Code is subject to excise tax.

#### **Article 277-1. Terms used in the Customs Union**

The terms, applied in this part shall be provided by the international agreements, ratified by the Republic of Kazakhstan, concluded between the member-states of the Customs Union.

If the international agreements, ratified by the Republic of Kazakhstan and concluded between the member-states of the Customs Union do not provide concepts used in this part, the concepts provided in the appropriate Articles of this Code, the civil or other spheres of the legislation of the Republic of Kazakhstan shall be applied.

**Footnote. The Chapter is supplemented with 38 Article 277-1 in accordance with the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

#### **Article 278. Payers**

1. Payers of excise taxes are the individuals and legal entities who:
  - 1) produce excisable goods in the territory of the Republic of Kazakhstan;
  - 2) import excisable goods to the territory of the Republic of Kazakhstan;
  - 3) perform wholesale, retail sales of gasoline (except for the A-gas) and diesel fuel in the territory of the Republic of Kazakhstan;
  - 4) realize the excisable goods, confiscated, unclaimed, passed to the state property under the inheritance right and gratuitously transferred to the state property in the territory of the Republic of Kazakhstan, specified in sub-paragraphs 5) - 7) of Article 279 of this Code, if the excise tax for the specified goods in the territory of the Republic of Kazakhstan was previously paid in accordance with the legislation of the Republic of Kazakhstan;
  - 5) realize bankruptcy assets of the excisable goods, specified in Article 279 of this Code, if the excise tax for the specified goods in the territory of the Republic of

Kazakhstan was not paid in accordance with the legislation of the Republic of Kazakhstan;

6) assemble (packaging arrangement) of the excisable goods, specified by sub-paragraph 6) of Article 279 of this Code.

2. Nonresident legal entities and their structural units shall be the payers of excise taxes, taking into account the provisions of paragraph 1 of this Article.

3. Authorized state bodies realizing the excisable goods, confiscated, unclaimed, passed to the state property under the inheritance right and gratuitously transferred to the state property in the territory of the Republic of Kazakhstan, specified in sub-paragraphs 5) - 7) of Article 279 of this Code shall not be the payers of the excise taxes.

**Footnote. Article 278 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

### **Article 279. The list of the excisable goods**

Excisable goods are:

- 1) alls of spirit;
- 2) alcohol products;
- 3) *excluded by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010);*
- 4) tobacco products;
- 5) gasoline (except for aviation), diesel fuel;
- 6) motor vehicles, designed for transportation of 10 and more people with the engine capacity of more than 3000 cubic centimeters, except for minibuses, buses and trolleybus;  
cars and other motor vehicles, designed for transportation of people the engine capacity of more than 3000 cubic centimeters (except for cars with manual control or manual control adapter specially designed for the disabled people);  
motor vehicles on the chassis of a car with the platform for cargoes and the driver's cabin, separated from the cargo compartment by a fixed rigid barrier, the engine capacity of more than 3000 cubic centimeters (except for the cars with manual control or manual control adapter, designed specially for the disabled people);
- 7) crude oil, gas condensate;
- 8) spirit-containing medical products, registered in accordance with the legislation of the Republic of Kazakhstan as medications.

**Footnote. Article 279 is in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**



## Article 280. The rates of excise taxes

1. The rates of excise taxes shall be established per measure unit (solid) in volume terms.

2. The rates of excise taxes for alcohol products shall be approved in accordance with paragraph 1 of this Article or according to volume content of the absolute (one hundred percent) of alcohol in it.

3. The rates of excise taxes shall differ according to purposes of further use of spirit and wine material for alls of spirit and wine materials.

The rate of excise tax may be established below the base rate which is established for spirit and wine material, realized to the persons, who do not use them for production of alcohol products, for the spirit and wine materials for production of alcohol products.

4. Calculation of the amount of excise tax shall be performed at the following rates:

1) for the excisable goods, specified in sub-paragraphs 1) - 4), 6), 7) 8) of Article 279 of this Code:

No. in order	commodity nomenclature of foreign economic activity code of EurAsEC	types of excisable goods	The rates of excise taxes ( in tenge per measure unit)
1	2	3	4
1.	from 2207	Undenaturated ethyl spirit with concentration of 80 volume percent or more ( except for the undenaturated ethyl spirit, realized for production of alcohol products, medical and pharmaceutical products, issued to the public health institutions within the quotas), ethyl spirit and other spirits denatured of any concentration (except for the denatured fuel ethyl spirit (ethanol) (not colorless, colored) for consumption in the domestic market)	600 tenge/liter
2.	from 2207	Denatured fuel ethyl spirit ( ethanol) (not colorless, colored) for consumption in the domestic market)	1,0 tenge/liter
		Undenaturated ethyl spirit, spirit tinctures and other alcoholic beverages with alcohol concentration of	

3.	from 2208	less than 80 volume percent (except for undenatured ethyl spirit realized for production of alcohol products, medical and pharmaceutical products issued to the public health care institutions within the quota)	750 tenge/liter 100 % of spirit
4.	from 2207	Undenatured ethyl spirit with alcohol concentration of 80 volume percent or more realized for production of alcohol products	60 tenge/liter
5.	from 2208	Undenatured ethyl spirit, spirit tinctures and other alcohol beverages with alcohol concentration of less than 80 volume percent realized for production of alcohol products	75 tenge/liter 100 % of spirit
5-1.	from 3003, 3004	Spirit-containing medical products registered in accordance with the legislation of the Republic of Kazakhstan as medications	500 tenge/liter 100% of spirit
6.	2208	Alcohol products (except for cognac, brandy, wines, wine materials and beer)	500 tenge/liter 100% of spirit
7.	2208	Cognac, brandy (except cognac, brandy, produced from cognac alcohol of domestic production)	325 tenge/liter 100% of spirit
8.	2208	Cognac, brandy, produced from cognac alcohol of domestic production	170 tenge/liter 100% of spirit
9.	2204, 2205, 2206 00	Wines	35 tenge/liter
10.	from 2204, 2205, 2206 00	Wine materials (except for those realized for ethyl spirit and alcohol products)	170 tenge/liter
11.	from 2204, 2205, 2206 00	Wine materials realized for production of ethyl spirit and alcohol products	0 tenge/liter

12.	2203 00	Beer	26 tenge/liter
13.	2202 90 100 1	Beer with the volume of ethyl alcohol of no more than 0,5 percent	0 tenge/liter

### Note of the RCLI!

This wording shall come into force from 01.01.2012 to 01.01.2013.

No. in order	Commodity nomenclature of foreign economic activity code of EurAsEC	Thes of excisable goods	The rates of excise taxes (in tenge per measure unit)
1	2	3	4
14.	from 2402	Cigarettes with the filter	1250 tenge/ 1000 units
15.	from 2402	Cigarettes without filter	750 tenge/1000 units
16.	from 2402	Cigarillos	1530 tenge/1000 Paragraphs
17.	from 2402	Cigars	120 tenge/Paragraph
18.	from 2403	pipe, smoking, chewing, sucking, snuff, hookah and other tobacco packed in consumer packaging for the final consumption, except for pharmaceutical products containing nicotine	1550 tenge/kilogram

No. in order	Commodity nomenclature of foreign economic activity code of EurAsEC	Thes of excisable goods	The rates of excise taxes (in tenge per measure unit)
19.	из 2709 00	Crude oil and gas condensate	0 tenge/ton
20.	из 8702	motor vehicles intended for transportation of 10 and more people with the engine capacity of more than 3000 cubic centimeters, except for minibuses, buses and trolleybuses	100 tenge/cubic centimeter
	из 8703	cars and other motor vehicles mainly designed for transportation of people with the engine capacity of more than 3000 cubic centimeters (except for cars with manual control or manual control adapter designed specially for the disabled people)	

	из 8704	motor vehicles on the chassis of a car with the platform for cargoes and the driver's cabin separated from the cargo compartment by the fixed rigid barrier the engine capacity of more than 3000 cubic centimeters (except for the cars with manual control or manual control adaptor designed specially for the disabled people)	
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2) for the excisable goods specified in sub-paragraph 5) of Article 279 of this Code

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No. in orde		The rates of excise taxes per 1 ton (in tenge)	
		Gasoline (except for aviation) (commodity nomenclature of foreign economic activity code of EurAsEC 2710 11 410 0-2710 11 590 0)	Diesel fuel (commodity nomenclature of foreign economic activity code of EurAsEC 2710 19 3100-2710 19 490 0)
1	2	3	4
1.	Wholesale of gasoline (except for aviation) and diesel fuel of own production by producers	4500	540
2.	Wholesale of gasoline (except for aviation) and diesel fuel By individuals and legal entities	0	0
3.	Retail sale of gasoline (except for aviation) and diesel fuel by producers, use for their own production purposes	5000	600
4.	Retail sale of gasoline (except for aviation) and diesel fuel by producers, use for their own production purposes	500	60
5.	Import	4500	540

In case, when a unit of measure of the volume when realizing gasoline (except for aviation) in retail sale shall be a liter, conversion of liters to tons shall be performed by the following formula:

$$V \times 0,730$$

$M = \frac{V \times 0,730}{1000}$ , where

1000

M - the amount of the realized gasoline (except for aviation), in tons;

V - the volume of the realized gasoline (except for aviation), in liters;

0,730 - the density index for alls of gasoline (except for aviation), kg/liter.

In case, where a unit of measure of the value when realizing diesel fuel in retail sale shall be a liter, conversion of liters to tons shall be performed by the following formula:

$M = \frac{V \times 0,769}{1000}$

$M = \frac{V \times 0,769}{1000}$ , where

1000

M - the amount of the realized diesel fuel, in tons;

V - the volume of the realized diesel fuel, in liters;

0,769 - the density index for alls of diesel fuel, kg/liter.

**Footnote. The nomenclature of goods shall be determined by the commodity nomenclature of foreign economic activity code of EurAsEC and (or) name of the goods.**

**Footnote. Article 280 as amended by the Laws of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced from 01.01.2012); dated 16.11.2009 No. 200-IV (the order of enforcement see Article 2); dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 26.11.2010 No. 356-IV (shall be enforced from 01.01.2011).**

## **Chapter 39. TAXATION OF EXCISABLE GOODS, PRODUCED, REALIZED IN THE REPUBLIC OF KAZAKHSTAN**

### **Article 281. Taxation objects**

1. An object of taxation by excise tax is:

1) the following operations, implemented by a payers of excise tax with the excisable goods, produced (or), extracted and (or) bottled by it (the payer):

realization of the excisable goods;

transfer of the excisable goods for processing on a give-and-take basis;

transfer of the excisable goods which are the products of processing of customer-supplied raw materials and materials, including the excisable ones;

a contribution to the authorized capital;

use of the excisable goods in natural payment, except for the cases of transfer of the excisable goods in the natural form against payment of the tax on production of mineral resources, rent tax on exports;

shipping of the excisable goods, performed by a producer to its structural units;

use of the excisable goods, produced and (or) extracted and (or) bottled by a producer for its own production needs and for its own production of the excisable goods;

movement of the excisable goods, which is performed by a producer from the address of the production, specified in a license;

2) wholesale of gasoline (except for aviation) and diesel fuel;

3) retail sale of gasoline (except for aviation) and diesel fuel;

4) realization of bankruptcy assets, confiscated and (or) unclaimed, passed under the ownership right to a state and the excisable goods, gratuitously transferred to the state property;

5) damage, loss of excisable goods;

6) import of excisable goods to the territory of the Republic of Kazakhstan.

2. Damage, loss of excise stamps, accounting and control marks shall be considered as realization of the excisable goods.

3. The following shall be exempted from taxation by excise tax:

1) Export of the excisable goods, if it meets the requirements, established by Article 288 of this Code;

**Note of the RCL!**

**Sub-paragraph 2) is in the wording by the Law of Republic of Kazakhstan dated 10.07.2012 No. 36-V (shall be enforced from 01.01.2013)**

2) Ethyl spirit within the quota, determined by an authorized state body on control over production and turnover of ethyl spirit and alcohol products, issued:

for production of medical and pharmaceutical products when a producer has a license of the Republic of Kazakhstan for the right to produce the specified products;

to state medical institutions when having the appropriate license;

3) the excisable goods, specified in paragraph 2 of Article 653 of this Code, subject to remarketing by the accounting-control or excise marks of a new model, if an excise tax for the specified goods was previously paid;

4) spirit-containing products of medical purpose (except for balms) registered in accordance with the legislation of the Republic of Kazakhstan as medications.

**Footnote. Article 281 as amended by the Laws of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 21.07.2011 No. 467 -IV (shall be enforced from 01.07.2011).**

## **Article 282. The date of an operation**

1. Unless otherwise provided by this Article, the date of shipping (transfer) of the excisable goods to a recipient shall be considered as the date of an operation in all cases.

2. if a producer of the excisable goods, produced by it realizes the goods through a network of its structural units, the date of an operation shall be the date of shipping of goods to the structural units.

3. The date of an operation shall be the date of transfer of goods to a contractor (processor) when transferring the excisable goods which are the customer-supplied raw materials.

The date of an operation shall be the date of transfer of the produced excisable goods to a customer or a person, specified by the customer when producing the excisable goods from the customer-supplied raw materials.

The period of processing of customer-supplied raw materials, which are excisable, exported from the territory of the Republic of Kazakhstan to the territory of a member-state of the Customs Union and imported to the territory of the Republic of Kazakhstan from the territory of the member-states of the Customs Union, shall be determined in accordance with the conditions of an agreement (contract) on processing of customer-supplied raw materials and cannot exceed two years from the date of accounting and (or) shipping of the customer-supplied raw materials.

In case of an excess of the established period of processing of customer-supplied raw materials, an object of taxation by excise tax shall be the expected amount of a product of the processing in accordance with the conditions of an agreement (contract) at the rates, established by Article 280 of this Code.

In case of import (export) of customer-supplied raw materials for processing, a taxpayer of the Republic of Kazakhstan shall provide the obligation for export (import) of products of the processing and its fulfillment in the order, in the form and within the deadlines, approved by the Government of the Republic of Kazakhstan.

4. In use of excisable goods for own production needs and own production of excisable goods, the date of an operation shall be the date of transfer of the specified goods for this use.

5. When transferring the excisable goods, performed by a producer from an address of the production, the date of an operation shall be the date of transfer of the excisable goods from the address of the production, specified in a license..

6. In case of damage of the excisable products, the excise stamps, accounting and control marks, the date of an operation shall be the date of composition of an act on the write-off of the damaged excisable products (excise stamps, accounting and control marks) or the date of the decision-making on its further use in the process of production.

In case of loss of excisable goods, excise stamps, accounting and control stamps, the date of an operation shall be the date when the loss of the excisable goods, excise stamps, accounting and control stamps occurred.

7. The date of an operation shall be the date when a taxpayer accepts the imported excisable goods for accounting when importing excisable goods to the territory of the Republic of Kazakhstan from the territory of other member-state of the Customs Union

For the purposes of this part, the date of acceptance for accounting of the imported excisable goods shall be the date of the record of these excisable goods in accordance with the international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting.

**Footnote. Article 282 as amended by the Laws of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 05.07.2011 No. 452 -IV (shall be enforced from 01.01.2012).**

#### **Article 283. The tax base**

The tax base for excisable goods shall be determined as the volume (amount) of the excisable goods, produced, realized in volume terms.

**Footnote. Article 283 in the wording of the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

#### **Article 284. Specifics of taxation of alls of spirit and wine materials in case of establishing different rates**

1. In case of establishing different rates for alls of spirit and wine materials in accordance with paragraph 3 of Article 280 of this Code, the tax base shall be determined separately on operations, taxable at the same rates.

2. When using spirit and wine materials, purchased by producers of alcohol products with an excise tax at the rate below the base one, not for production of ethyl spirit and (or) alcohol products, the amount of the excise tax for this spirit and wine materials shall be subject to recalculation and payment at the base rate of the excise tax , established for alls of spirit and wine materials, realized to persons who are not the producers of alcohol products. The recalculation and payment of the excise tax shall be made by a recipient of the spirit and wine materials.

3. The provisions of paragraph 2 of this Article shall also be applied in case of improper use of spirit, purchased for production of medical and pharmaceutical products and provision of medical services. Payers of an excise tax for this spirit shall be producers of medical and pharmaceutical products and state medical institutions, which received the spirit without the excise tax.

#### **Article 285. Damage, loss of excisable goods**



1. In case of damage, loss of excisable goods, produced in the territory of the Republic of Kazakhstan and imported to the territory of the Republic of Kazakhstan from the territory of the member-states of the Customs Union, the excise tax shall be paid in the full amount, except for the cases occurred as a result of emergencies.

This provision shall also be applied in case of damage, loss of gasoline (except for aviation), and diesel fuel, purchased for further realization.

2. For the purposes of this Article:

1) damage of excisable goods shall mean deterioration of all or certain qualities (properties) of goods, including those at all technological stages of their production.

2) loss of excisable goods shall mean an event, as a result of which the destruction or loss of goods, including those at all technological stages of their production, happened.

Loss of excisable goods, suffered by a taxpayer within the norms of a natural loss, established by the legislation of the Republic of Kazakhstan and loss within the norms, regulated by a producer through normative and technical documentation, shall not be recognized as the loss.

**Footnote. Article 285 as amended by the Laws of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

#### **Article 286. Damage, loss of excise stamps, accounting and control stamps**

1. Unless otherwise provided by paragraph 2 of this Article, an excise tax shall be paid in the amount of the stated assortment when damaging, losing excise stamps, accounting and control stamps.

Calculation of an excise tax for damaged and lost (including stolen ones) accounting and control stamps, designed for marketing alcohol products in accordance with Article 653 of this Code shall be performed according to the established rates, applied to the volume of a tank (container), specified on the mark.

2. When damaging, losing of excise stamps, accounting and control stamps, an excise shall be paid in the following cases:

1) damage, loss of excise stamps, accounting and control stamps occurred as a result of emergencies;

2) damaged excise stamps, accounting and control stamps are accepted by the tax bodies on the basis of an act of the write-off to destruction.

#### **Article 287. The criteria of attribution to wholesale and retail sale of gasoline (except for aviation) and diesel fuel, performed in the territory of the Republic of Kazakhstan**

1. Realization of gasoline (except for aviation) and diesel fuel shall be attributed to the sphere of wholesale, if a buyer is obliged to accept the specified excisable goods

and use them for further realization under a contract of purchase (of sale) (barter), provided that the suppliers under the contract of purchase (of sale) are:

- 1) a producer of gasoline (except for aviation) and diesel fuel;
- 2) a taxpayer, registered for certain activity in accordance with Article 574 of this Code and who purchased or imported gasoline (except for aviation) and diesel fuel for the purpose of their further realization.

The sphere of fuel realization shall also include:

- 1) shipping of gasoline (except for aviation) and diesel fuel to structural units for further realization;
- 2) transfer of oil products, produced from customer-supplied raw materials and gasoline (except for aviation) and diesel fuel by the producer, except for the cases, established in sub-paragraph 1) of paragraph 2 of this Article.

2. The sphere of realization of gasoline (except for aviation) and diesel fuel shall include the following operations, performed by the suppliers, specified in paragraph 1 of this Article:

- 1) realization and transfer of oil products, produced from customer-supplied raw materials and materials gasoline (except for aviation) and diesel fuel to the persons for their production needs;
- 2) realization of gasoline (except for aviation) and diesel fuel to individuals;
- 3) use of gasoline (except for aviation), produced or purchased for further realization and diesel fuel for own production needs.

**Footnote. Article 287 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).**

#### **Article 288. Confirmation of export of excisable goods**

1. Unless otherwise provided by this Article, in order to confirm the validity of exemption from taxation in accordance with paragraph 3 of Article 281, a taxpayer shall submit the following documents to a tax body at the location within sixty working days from the date of an operation when realizing the excisable goods for export:

- 1) an agreement (contract) for supply of the exported excisable goods;
- 2) the cargo customs declaration or its copy certified by a tax body with stamp of the customs body which released the excisable goods in the customs procedure of export.

In case of export of excisable goods in the customs procedure of export via a system of pipelines or with application of the procedure of the partial periodic declaring, the confirmation of the export shall be the full cargo customs declaration with the mark of a tax body that performed the customs declaring;

3) the copies of the shipping documents with the mark of a tax body, located in a checkpoint on the customs border of the Customs union.

In case of export of excisable goods in the customs procedure of export via a system of pipelines, the act of delivery and acceptance of the goods shall be submitted instead of the copies of the shipping documents;

4) the payment documents and a bank statement which confirm the actual receipt of earning from realization of the excisable goods on the bank accounts of a taxpayer in the Republic of Kazakhstan, opened in accordance with the legislation of the Republic of Kazakhstan.

2. A copy of the cargo customs declaration, formalized in a state, of import of excisable goods, exported from the customs territory of the Republic of Kazakhstan in the customs procedure of export, shall be additionally submitted when exporting the excisable goods to the member-states of the Commonwealth of Independent States (except for the member-states of the Customs Union), with which the Republic of Kazakhstan has international agreements, providing exemption from the excise tax for export of the excisable goods.

2-1. In order to confirm the validity of exemption from payment of excise taxes in accordance with paragraph 3 of Article 281 of this Code, a taxpayer shall submit the documents, provided by Article 276-11 of this Code, except for the documents, specified in sub-paragraph 5) of paragraph 1 of Article 276-11 of this Code, along with the declaration for the excise tax when exporting the excisable goods to the territory of a member-state of the Customs Union.

The taxpayer has the right to submit the specified documents, except for the declaration for the excise tax, to a tax body within one hundred and eighty calendar days from the date of an operation.

3. In case of disconfirmation of realization of excisable goods for export in accordance with paragraphs 1, 2 and 2-1 of this Article, this realization shall be taxable by an excise tax in the order, established by this part for realization of excisable goods in the territory of the Republic of Kazakhstan.

4. In case of confirmation of realization of excisable goods for export after the deadlines, established by paragraph 2-1 of this Article, in accordance with paragraph 3 of this Article the paid amounts of excise taxes shall be subject to the set-off and refund in accordance with Articles 599 and 602 of this Code.

The paid amounts of fines, charged in accordance with disconfirmation of realization of excisable goods for export to the territory of a member-state of the Customs Union shall not be refundable.

**Footnote. Article 288 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

## **Article 289. Calculation of the amount of an excise tax**

Calculation of the amount of an excise tax shall be performed via applying of the established rate of the excise tax to the tax base.

## **Article 290. Adjustment of the tax base**

Unless otherwise provided by this Article, the tax base shall be adjusted within the tax period, in which a return of excisable goods was made.

Adjustment of the amount of the tax base in accordance with this Article shall be made on the basis of the additional invoice, in which the amount of an excise tax, subject to adjustment, is singled out in a separate line, and the bilateral acts, confirming the ground for return of the excisable goods and other documents, confirming occurrence of the cases of the return, specified in an agreement (contract).

Adjustment of the amount of the tax base when importing excisable goods from the member-states of the Customs Union shall be performed in accordance with paragraphs 1 - 3 of Article 276-23 of this Code.

**Footnote. Article 290 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

## **Article 291. Deduction from the tax**

1. A taxpayer have the right to reduce the amount of an excise tax, calculated in accordance with Article 289 of this Code by the deductions, established by this Article.

2. The amount of an excise tax, paid in the Republic of Kazakhstan for excisable goods, used as the basic raw materials for production of other excisable goods, shall be attributed to deduction in accordance with this Article.

3. Deduction shall be applied to the amounts of an excise tax, paid:

1) In the territory of the Republic of Kazakhstan when purchasing or importing the excisable goods to the territory of the Republic of Kazakhstan;

2) for excisable raw materials of own production;

3) when transferring excisable goods, made of the customer-supplied excisable raw materials.

The amount of the excise tax for alls of spirit, crude oil, gas condensate shall be deductible.

4. Deduction shall be made on the amount of an excise tax, calculated according to the amount of excisable raw material actually used for production of goods within a tax period.

5. Deduction of the amount of an excise tax, paid when purchasing excisable raw materials in the territory of the Republic of Kazakhstan shall be conducted if the following documents are provided:

- 1) a contract of purchase (of sale) of excisable raw materials;
- 2) the payment documents or the receipts and cash orders with attachment of checks of a cash register machine, confirming the payment of excisable raw materials;
- 3) the waybills for supply of excisable raw materials;
- 4) the invoices with the amount of an excise tax, singled out in a separate line;
- 5) blended sheets (when producing alcohol products);
- 6) the act of the write-off of the excisable raw materials to production.

6. Deduction of the amount of an excise tax, paid for excisable raw materials of own production, shall be performed if the following documents are provided:

- 1) the payment documents or other document, confirming payment of an excise tax to the budget;
- 2) blended sheets (when producing alcohol products);
- 3) the act of the write-off of excisable raw materials to production.

7. Deduction of the amount of an excise tax, paid in the Republic of Kazakhstan when importing excisable goods to the territory of the Republic of Kazakhstan, shall be performed if the following documents are provided:

- 1) a contract of purchase (of sale) of excisable raw materials;
- 2) the payment documents or other documents confirming payment of an excise tax to the budget when customs declaring;
- 3) the cargo customs declaration for the imported excisable raw materials when importing excisable raw materials to the territory of the Republic of Kazakhstan from the territory of states which are not the members of the Customs Union or an application on import of goods and payment of indirect taxes when importing goods to the territory of the Republic of Kazakhstan from the territory of the member-states of the Customs Union;
- 4) blended sheets (when producing alcohol products);
- 5) the act of the write-off of excisable raw materials to production.

8. The amount of an excise tax, paid when transferring the excisable goods, produced in the territory of the Republic of Kazakhstan from customer-supplied excisable raw materials shall also be deductible if the following documents are provided:

- 1) an agreement on processing of customer-supplied excisable raw materials between an owner of the customer-supplied excisable raw materials and a processor;
- 2) the payment documents or other documents, confirming payment of an excise tax to the budget by an owner of customer-supplied excisable raw materials;
- 3) the invoice for release or an act of transfer of the excisable raw materials.

9. In case of an excess of the amount of an excise tax, paid by producers of excisable goods in purchasing in the territory of the Republic of Kazakhstan or importing of excisable raw materials over the amount of the excise tax, calculated for

the goods, produced from these raw materials, the amount of this excess shall not be deductible.

**Footnote. Article 291 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

#### **Article 292. The deadlines for payment of an excise tax**

1. Unless otherwise provided by this Article, an excise tax for excisable goods shall be paid to the budget no later than the 20th of the month following the reporting tax period.

2. An excise tax for excisable goods, made of the customer-supplied raw materials, shall be paid on the date of transfer of the production to a customer or a person, specified by the customer.

3. When transferring crude oil, gas condensate, extracted in the territory of the Republic of Kazakhstan for industrial processing, an excise tax shall be paid on the date of their transfer.

4. An excise tax for the excisable goods, established in sub-paragraph 2) of Article 279 of this Code, except for wine material and beer, shall be paid before receiving the accounting and control stamps.

5. Confirmation of the payment of an excise tax for the excisable goods, imported from the territory of the member-states of the Customs Union by the tax bodies in an application on import of goods and payment of indirect taxes by putting the appropriate mark or a motivated refusal to confirm, shall be performed in the order, specified by the Government of the Republic of Kazakhstan.

**Footnote. Article 292 as amended by the Laws of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 05.07.2011 No. 452 -IV (shall be enforced from 01.01.2012).**

#### **Article 293. place of payment of an excise tax**

1. Payment of an excise tax shall be made at the location of an object of taxation, except for the cases, specified in paragraphs 2 and 3 of this Article.

2. Payers of an excise tax, who perform wholesale and retail sale of gasoline (except for aviation) and diesel fuel, shall pay the excise tax at the location of objects, related to taxation.

3. In case of import of excisable goods from the territory of the member-states of the Customs Union, the payment of an excise tax shall be made at the place of stay (residence) of a payer of the excise tax.

**Footnote. Article 293 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

**Article 294. The order of calculation and payment of an excise tax by taxpayers for structural units, objects related to taxation**

1. Calculations of an excise tax shall be composed separately (hereinafter in the part - the calculation on an excise tax) on operations, taxable by the excise tax, performed within a tax period by a structural unit and objects, related to taxation.

The amount of an excise tax, subject to payment for a structural unit and objects, related to taxation, shall be determined on the basis of the calculation on the excise tax.

2. Payers of an excise tax shall submit the calculation for the excise tax to the tax bodies at the location of a structural unit, objects related to taxation within the deadlines, established by Article 296 of this Code.

Payers of an excise tax who have several objects, related to taxation and registered in the same tax body shall submit one calculation for the excise tax for all the objects.

3. Payment of an excise tax, including the current payments, for structural units, objects related to taxation shall be made by a legal entity - payer of the excise tax directly from its bank account or shall be entrusted to the structural unit.

4. Individual entrepreneurs shall submit the calculation for an excise tax, subject to payment for the objects, related to taxation at the location of the objects, related to taxation.

**Article 295. tax period**

A tax period shall be a calendar month in relation to an excise tax.

**Article 296. The tax declaration**

1. Unless otherwise provided by this Article, payers of excise taxes shall be submit the declaration for an excise tax to the tax bodies at its location no later than the 15th of the second month following the reporting tax period at the end of each tax period.

2. Payers of an excise tax shall simultaneously submit the calculations for the excise tax.

3. Taxpayers who import the excisable goods to the territory of the Republic of Kazakhstan from the territory of the member-states of the Customs Union shall submit the declaration for indirect taxes for the imported goods to a tax body at the location (place of residence) in the form and in the order, established by paragraph 5 of Article 276-20 of this Code no later than the 20th of the month following the month of accounting of the imported excisable goods. The documents, specified by paragraph 3 of Article 276-20 of this Code shall be submitted along with this declaration.

The declaration for indirect taxes for the imported goods and an application on import of goods and payment of indirect taxes shall be considered as failed to be



submitted to a tax body in the cases, provided by paragraph 6 of Article 276-20 of this Code.

**Footnote. Article 296 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

## **Chapter 40. TAXATION OF IMPORT OF EXCISABLE GOODS**

### **Article 297. The tax base of the imported excisable goods**

The tax base shall be determined as the volume, amount of the imported excisable goods in volume terms on the excisable goods, imported to the territory of the Republic of Kazakhstan.

**Footnote. Article 297 in the wording of the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

### **Article 298. The deadlines for payment of an excise tax for the imported excisable goods**

1. Excise taxes for the imported excisable goods from the territory of states which are not the members of the Customs Union shall be paid on the date for payment of customs payments, determined by the legislation of the Republic of Kazakhstan, except for the cases, provided by paragraph 2 of this Article, in the order, established by an authorized body on customs issues.

2. An excise tax for the imported excisable goods, subject to marketing in accordance with Article 653 of this Code shall be paid before receiving the excise stamps, accounting and control stamps.

The amount of an excise tax is subject to specification when performing the actual import of the excisable goods, specified in the first part of this paragraph.

3. Excise taxes for the excisable goods (except for the marked excisable goods), imported from the territory of the member-states of the Customs Union, shall be paid no later than the 20th of the month following the month of accounting of the imported excisable goods.

Payment of excise taxes for the marked excisable goods shall be performed within the deadlines, established by paragraph 2 of this Article.

4. In case of use of the excisable goods, import of which to the territory of the Republic of Kazakhstan was performed in accordance with the legislation of the Republic of Kazakhstan without paying excise taxes, for other purposes than those, in connection with which the exemption or other order of payment were provided, these excisable goods shall be subject to taxation by the excise taxes in the order and at the rates of the excise taxes, established by Articles 280 and 297 of this Code.

**Footnote. Article 298 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**



## **Article 299. Import of the excisable goods, exempted from an excise tax**

1. Excisable goods, imported by individuals under the norms, provided by the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan shall not be taxable by excise taxes.

2. The following imported excisable goods shall be exempted from payment of an excise tax:

1) excisable goods necessary for exploitation of vehicles, designed for international transportation during the journey and at the stopover points.

2) excisable goods which became unusable as the products and materials because of the damage, caused before their passing through the customs border of the Customs Union;

3) excisable goods, imported for official use by foreign diplomatic and equivalent representative offices and for personal use by persons of diplomatic, administrative and technical personnel of these offices, including their family members, living with them. The specified goods shall be exempted from payment of an excise tax in accordance with the international agreements, a participant of which is the Republic of Kazakhstan ;

4) excisable goods passing through the customs border of the Customs Union and which are released in the territory of the Republic of Kazakhstan within the customs procedures, established by the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan, except for the customs procedure of release for domestic consumption;

5) spirit-containing products of medical purpose (except for balms) registered in accordance with the legislation of the Republic of Kazakhstan.

**Footnote. Article 299 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

## **SECTION 10. THE RENTAL TAX ON EXPORT**

### **Chapter 41. THE RENTAL TAX ON EXPORT**

**Note of the RCLII!**

**Article 300 operates until 01.01.2015 in accordance with the Law of the Republic of Kazakhstan dated 22.06.2012 No. 21-V.**

## **Article 300. The payers**

The payers of the rental tax on export are individuals and legal entities who sell for export:

1) Crude oil, natural gas liquids, except the subsurface users who export volumes of crude oil, natural gas liquids produced within the framework of the contracts specified in paragraph 1 of Article 308-1 of this Code;

Legal entities, list of which enacts by official in oil and gas sphere, applied custom procedure of export in regard to oil capacity, defined by official in oil and gas sphere, and previously fund under customs procedure of processing of products outside of custom territory;

Wherein in cases when after customs procedure of processing outside of custom territory is finished, legal entity did not import in fact into the Republic of Kazakhstan goods of processing capacity, specified in document about terms of processing of products outside of custom territory, except products, defined by Government of the Republic of Kazakhstan, that legal entity determined as payer of for export in regard to all capacity of crude oil, passed for processing under the customs procedure of processing of products outside of custom territory in accordance with the subparagraph 2-1) of paragraph 2 of the Article 332 of Code;

2) Coal.

**Footnote. Article 300 is in the wording of the Law of the Republic of Kazakhstan dated 22.06.2012 No. 21-V (shall be enforced upon the expiry of ten days after its first official publication).**

### **Article 301. Taxation object**

An object of taxation by the rental tax on export is volumes of crude oil, natural gas liquids, coal which are sold for export.

### **Article 302. The procedure for the assessment**

1. Value of exported crude oil, natural gas liquids calculated on the basis of volumes of crude oil, natural gas liquids actually sold for export and world prices calculated in accordance with the procedure established by paragraph 3 of Article 334 of this Code, shall be recognized as the tax base for the assessment of the rental tax on exported crude oil, natural gas liquids.

In the case of coal, the value of exported coal assessed on the basis of volumes of coal actually sold for export, shall be recognized as tax base for the assessment of rental tax on export.

2. The monetary form of payment of the rental tax on exported crude oil, natural gas liquids, pursuant to a decision of the Government of the Republic of Kazakhstan may be replaced with an in-kind form in accordance with the procedure to be established by an additional agreement to be concluded between the authorized state body and the taxpayer.

The procedure for the in-kind payment of rental tax on exported crude oil, natural gas liquids, shall be established by Article 346 of this Code.

### **Article 303. Rates of the rental tax on export**

In the case of export of crude oil, natural gas liquids, the rental tax on export shall be assessed by using the following rates:

No	World Price Rate	Rate, %
1	2	3
1.	up to 20 US dollars for barrel, inclusive	0
2.	up to 30 US dollars for barrel, inclusive	0
3.	up to 40 US dollars for barrel, inclusive	0
4.	up to 50 US dollars for barrel, inclusive	7
5.	up to 60 US dollars for barrel, inclusive	11
6.	up to 70 US dollars for barrel, inclusive	14
7.	up to 80 US dollars for barrel, inclusive	16
8.	up to 90 US dollars for barrel, inclusive	17
9.	up to 100 US dollars for barrel, inclusive	19
10.	up to 110 US dollars for barrel, inclusive	21
11.	up to 120 US dollars for barrel, inclusive	22
12.	up to 130 US dollars for barrel, inclusive	23
13.	up to 140 US dollars for barrel, inclusive	25
14.	up to 150 US dollars for barrel, inclusive	26
15.	up to 160 US dollars for barrel, inclusive	27
16.	up to 170 US dollars for barrel, inclusive	29
17.	up to 180 US dollars for barrel, inclusive	30
18.	up to 190 US dollars for barrel, inclusive	32

19.	up to 200 US dollars for barrel and more	32
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In the case of exporting coal, the rental tax on export shall be calculated at a rate of 2.1 per cent.

#### **Article 304. Tax period**

Calendar quarter shall be recognized as tax period for the payment of the rental tax on export.

#### **Article 305. Time for payment**

Taxpayers shall be obliged to pay the assessed amounts of the tax to the budget not later than the 25th day of the second month following a tax period.

#### **Article 306. Tax declarations**

Rental tax declarations on export, shall be submitted to the tax authority in the place of location of the taxpayer not later than the 15th day of the second month following a tax period.

### **SECTION 11. TAXATION OF SUBSURFACE USERS**

#### **Chapter 42. GENERAL PROVISIONS**

#### **Article 307. Relations regulated by this Section**

1. When conducting subsurface use operations within the framework of subsurface use contracts concluded in accordance with the procedure defined by the legislation of the Republic of Kazakhstan, the subsurface users shall pay all the taxes and other obligatory payments to the budget as established by this Code.

2. This Section shall establish the procedure for the assessment and payment of special payments and taxes of subsurface users when conducting subsurface use operations, and specifics on fulfillment of tax obligation on activity performed under the production sharing agreement (contract).

3. Special payments and taxes of subsurface users include the following:

1) Special payments of subsurface users:

a) Signature bonus;

b) Commercial discovery bonus;

c) Payment for compensation of historic costs;

2) Tax on production of mineral resources;

3) Excess profit tax.

In this Section special definitions and terms shall have the meanings as defined by the legislation of the Republic of Kazakhstan on subsurface and subsurface use.

4. The procedure for the recognition of a field (group of fields, a portion of a field) as low-productivity, high-viscosity, with water contents, low-debit and depleted categories, their list and taxation procedure with regard to tax on production of mineral resources, shall be defined by the Government of the Republic of Kazakhstan.

**Footnote. Article 307 as amended by the Laws of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced from 01.01.2012); dated 30.06.2010 No. 297 -IV (shall be enforced from 01.01.2009).**

#### **Article 308. Taxation of activity on conducting subsurface use operations**

1. The calculation of tax obligations in relation to taxes and other obligatory payments to the budget on activity performed within the framework of subsurface use contracts shall be carried out in accordance with the tax legislation of the Republic of Kazakhstan that is in effect at the time of emergence of the obligations associated with their payment, except for the cases specified in paragraph 1 of Article 308-1 of the Code.

2. A nonresident subsurface user who carries out activity under the subsurface use contract shall additionally be subject to taxation in accordance with Articles 198-200 of this Code.

3. A subsurface user shall be obliged to keep separate accounts in accordance with Article 310 of this Code for the assessment of the tax obligation associated with the activity which is carried out within the framework of each concluded subsurface use contract, and also when developing a low-productivity, high-viscosity, watered, low-debit and depleted deposit (group of deposits, portion of a

deposit where activity on such group of deposits, portion of a deposit is carried out within the framework of one contract) in the case of the assessment of taxes and other obligatory payments to the budget on such deposit (group of deposits, portion of a deposit where activity on such group of deposits, portion of a deposit are carried out within the framework of one contract) shall be assessed in accordance with the procedure and at rates which are different from those established by this Code.

This provision shall not apply to the contracts for production of widespread mineral resources, underground waters, therapeutic mud, and also for the construction and (or) operation of underground facilities not connected with exploration and (or) production.

A subsurface user who carries out commercial production of oil, mineral raw materials, and underground water as well as therapeutic mud, of which the production is not, specified in the subsurface use contract provisions and whose reserves have been approved by the governmental agency of the Republic of Kazakhstan authorized for that purpose shall be obliged to make payment of taxes and other obligatory

payments to the budget on them in accordance with the procedure established by this Code until appropriate amendments and additions are introduced to the subsurface use contract in accordance with the procedure established by the legislation of the Republic of Kazakhstan.

4. Where the subsurface use rights under one subsurface use contract are held by several individuals and (or) legal entities who are members of a simple partnership (consortium), each member of a simple partnership (consortium) shall act as a taxpayer of taxes and other obligatory payments to the budget established by the legislation of the Republic of Kazakhstan.

5. Where the subsurface use rights under one subsurface use contract are held by several individuals and (or) legal entities who are members of a simple partnership (consortium) with regard to activity which are carried out under such subsurface use contract, the members of a simple partnership (consortium) shall be obliged to appoint an authorized representative in order to maintain consolidated tax accounting.

An authorized representative of simple partnership (consortium) members shall be obliged to maintain a consolidated tax accounting on activity, performed under the subsurface use contract in accordance with the requirements of this Code.

When performing operations of subsurface use within the framework of the production sharing agreement (contract) the operator shall act as such authorized representative.

Powers of the authorized representative of a simple partnership members (consortium), including the operator, must be approved in accordance with the requirements of Articles 17 and 17-1 of the Code.

6. Fulfillment of tax obligations under the subsurface use contract shall be performed in the procedure established by the Code, by a member (members) and (or) an authorized representative of the members of a simple partnership (consortium), responsible for keeping consolidated tax accounting on such activity, on the basis of the information of the consolidated tax accounting. Therewith fulfillment of tax obligations for submission of tax reports forms shall be exercised by the members of a simple partnership (consortium) independently, except for the cases provided for in the sub-paragraph 2) of paragraph 3 Article 308-1 of the present Code.

**Footnote. Article 308 is in the wording of the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2009).**

#### **Article 308-1. The procedure for fulfillment of tax obligation by certain subsurface users**

1. The tax regime defined in the production sharing agreement (contract) concluded between the Government of the Republic of Kazakhstan or the competent authority and a subsurface user prior to January 1, 2009 and which passed the obligatory tax examination, as well as in a subsurface use contract that has been approved by the

President of the Republic of Kazakhstan shall be preserved in respect of the taxes and other obligatory payments to the budget for which in accordance with the provisions of such agreement (contract) the stability of the tax regime is explicitly provided, shall be effective exclusively with regard to the parties to such agreement (contract), and also with regard to the operators, during its entire established validity period, shall not apply to persons which are not parties to such agreement (contract) or operators, and may be altered pursuant to the mutual agreement of parties.

Performance of tax obligation with regard to taxes which shall be withheld at source of payment, in relation to which the subsurface user acts as a tax agent, shall be carried out in accordance with the tax legislation of the Republic of Kazakhstan that are in effect at the time of emergence of the obligations associated with their payment irrespective of whether the provisions regulating the procedure for the application of taxes which are withheld at source of payment are specified or not in the production sharing agreement (contract) concluded between the Government of the Republic of Kazakhstan or the competent authority and a subsurface user prior to January 1, 2009 and which passed the obligatory tax examination, and in the subsurface use contract approved by the President of the Republic of Kazakhstan.

In the case of abolition of certain taxes and other obligatory payments to the budget , which are specified by the tax regime of the production sharing agreement (contract) concluded between the Government of the Republic of Kazakhstan or the competent authority and a subsurface user prior to January 1, 2009 and which passed the obligatory tax examination, as well as the tax regime of the subsurface use contract approved by the President of the Republic of Kazakhstan, the subsurface user shall continue their payment to the budget in accordance with the procedure and in amounts established by the production sharing agreement (contract) and (or) subsurface use contract until the expiry of their validity or introduction of the appropriate amendments and additions in accordance with the procedure established by the legislation of the Republic of Kazakhstan.

2. Where the determination of the operator is provided for by the provisions of a production sharing agreement (contract), as concluded between the Government of the Republic of Kazakhstan or the competent authority and the subsurface user prior to January 1, 2009 that passed the obligatory tax examination, and fulfillment of tax obligation under the agreement (contract) is performed by an operator, then such operator shall fulfill the tax obligation under the agreement (contract) pursuant to the tax regime that is effective with respect to the parties to the agreement (contract) in accordance with paragraph 1 of this Article.

3. Fulfillment of tax obligation of members of a simple partnership (consortium) within the framework of the production sharing agreement (contract) can be performed through one of the following methods:

1) fulfillment of tax obligation by a member of a simple partnership (consortium) shall be performed individually or by the operator on the behalf and on the instructions of such member as related to the obligation attributable to the member's share. Therewith, in the tax forms as taxpayer shall be indicated details of a member of a simple partnership (consortium), as an authorized representative- details of an operator;

2) fulfillment of tax obligation of members of a simple partnership (consortium) shall be performed by the operator cumulatively on the activity carried out within the framework of the production sharing agreement (contract), if specified in the provisions of the production sharing agreement (contract). Therewith, compiling and submission (revocation) of tax forms shall be performed by the operator in the procedure provided for by Chapter 8 of the Code stating the operator's details as a taxpayer.

4. When any tax obligations of the operator as a taxpayer (tax agent) occur in the course of subsurface use operations in accordance with the requirements of the tax legislation, then such tax obligations shall be fulfilled by the operator individually.

**Footnote. The Chapter 42 is supplemented with Article 308-1 in accordance with the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2009).**

#### **Article 309. Taxation of activity that does not relate to subsurface use operations**

The implementation of tax obligations relating to activity which are carried out within a subsurface use contract shall not release the subsurface user from the performance of the tax obligation for carrying out activity beyond the framework of a subsurface use contract, in accordance with the tax legislations of the Republic of Kazakhstan that are in effect on the date of the emergence of a tax obligation.

#### **Article 310. The general principles of keeping separate tax accounting for subsurface use operations**

1. The subsurface user shall be obliged to keep separate tax accounting of taxation object and (or objects related to taxation for assessing the tax liability under contractual activity by each subsurface use contract, as well as when developing a low-profit, high viscosity, watered, low-flow and exhausted field (a group of fields, provided that the activities are performed in relation to such a group of fields within the framework of the same contract) as determined by paragraph 4 of Article 407 of this Code.

2. For the purposes of this Article the following terms have the following meanings :

1) Direct income and costs - subsurface user's direct income and costs of the reporting tax period, including income and costs pertaining to fixed assets, which have



direct cause and effect relation with a specific subsurface use contract or non-contractual activity;

2) Indirect income and costs - subsurface user's income and costs of the reporting tax period, including income and costs pertaining to fixed assets, which have direct cause and effect relation with several subsurface use contracts and which are subject to apportionment to such subsurface use contracts only;

3) General income and costs - subsurface user's income and costs of the reporting tax period, including income and costs pertaining to general fixed assets, which are related to contract and non-contract activity and which have no direct cause and effect relation with a specific subsurface use contract and (or) non-contractual activity and which require splitting among them;

4) General fixed assets - fixed assets, which are related to the performance of contract and non-contract activity and by virtue of the specificity of their use have no direct causal relation with a specific subsurface use contract and (or) non-contractual activities;

5) Indirect fixed assets - fixed assets, which by virtue of their specificity have direct cause and effect relation with subsurface use contracts only;

6) Industrial production and primary processing (concentration) cost - costs of production, which are determined in accordance with the international financial reporting standards and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting, which are directly related to recovery of mineral resources from the subsurface to the surface and their primary processing (concentration), except for costs of storage, transportation, selling of mineral resources, general administrative and other costs not related directly to the recovery of mineral resources from the subsurface to the surface and their primary processing (concentration).

3. Separate tax accounting for taxation objects and (or) objects related to taxation shall be kept by the subsurface user on the basis of data of the accounting documents in accordance with the approved tax accounting policy and with respect to provisions established by this Article.

The procedure for keeping separate tax accounting shall be elaborated by the subsurface user independently and be approved in the tax accounting policy (part of the accounting policy).

A copy of approved tax accounting policy (part of the accounting policy), which has been approved for the first time, shall be presented by the subsurface user to the tax authority in the place of its location by the time established by this Code for submission a corporate income tax declaration.

Amendments and additions to the tax accounting policy (part of the accounting policy) or a new version of the tax accounting policy (part of the accounting policy)

shall be presented by the subsurface user to the tax authority in the place of its location within ten working days after their approval.

Provisions of this Article shall also apply in respect to the authorized representative of members of a simple partnership (consortium), which is responsible for keeping consolidated tax accounting in accordance with paragraph 5 of Article 308 of the Code.

4. With regard to contractual activities separate tax accounting shall be kept for the following taxes and other obligatory payments to the budget:

- 1) Corporate income tax;
- 2) Signature bonus;
- 3) Commercial discovery bonus;
- 4) Tax on production of mineral resources;
- 5) Excess profit tax;

6) Other taxes and other obligatory payments to the budget, which are assessed in accordance with the procedure different from the procedure established by this Code, on the basis of the tax regime of the subsurface use contracts as defined in paragraph 1 of Article 308-1 of this Code.

5. When keeping separate tax accounting for the assessment of tax liability, the subsurface user shall be obliged to ensure the following:

1) The presentation of taxation objects and (or) objects related to taxation in the tax accounting for the assessment of assess taxes and other obligatory payments to the budget, which are indicated in paragraph 4 of this Article, by each subsurface use contract separately from the non-contractual activity;

2) The assessment of taxes and other obligatory payments to the budget, which are not indicated in paragraph 4 of this Article, as well as of the corporate income tax in total for all the activity of the subsurface user;

3) The presentation of tax reports concerning taxes and other obligatory payments to the budget, which are indicated in paragraph 4 of this Article, except for tax reports on the corporate income tax, for each subsurface use contract;

4) The presentation of a single corporate income tax declaration in total for the subsurface user's activity and of appropriate supplements to it for each subsurface use contract.

5) Submission of tax reports on taxes and other obligatory payments to the budget, not specified in paragraph 4 of this Article, with regard to all activity of the subsurface user as a whole.

6. Where the corporate income tax is assessed in total for the subsurface user's activity, the losses which are incurred under any specific subsurface use contract, which the subsurface user has the right to compensate only at the expense of income

gained from activity under such a subsurface use contract, within the following tax periods subject to provisions of Article 137 of this Code, shall not be taken into account.

7. For the purposes of keeping separate tax accounting for taxation objects and (or) objects related to taxation, all the subsurface user's income and costs shall be divided in direct, indirect and general.

Classifying income and costs as direct, indirect and general shall be performed by the subsurface user independently based on the specificity of the activity.

Direct income and costs must be attributed in full volume only to that contractual or non-contractual activity, which they have direct causal relation with.

General income and costs shall be apportioned to the contractual and non-contractual activity and be included in an adequate share among the income and costs of that contract and non-contractual activity, which they have cause and effect relationship with.

Indirect income and costs shall be split among subsurface use contracts only and be included in an adequate share among the income and costs of that contract, which they have causal relationship with.

Apportionment of general and indirect income and costs shall be performed in accordance with the methods established by paragraph 9 of this Article and subject to provisions of paragraph 8 of this Article.

8. For general and indirect fixed assets, costs, which have been incurred by the subsurface user in relation to said fixed assets, including costs of depreciation and subsequent costs, shall be distributed between the subsurface use contract (contracts) and the non - contractual activity.

For general and indirect costs related to remuneration, the total amount of deductions for such remuneration determined in accordance with Article 103 of this Code shall be split.

For exchange rate differences, the final (balanced) result in the form of an excess amount of positive exchange difference over the amount of negative exchange difference or an excess of negative exchange difference over the amount of positive exchange difference, computed for the tax period: income or loss, shall be subject to apportionment.

Taxes allowing deductions of general and indirect taxation objects and (or) objects related to taxation, shall be subject to apportionment in accordance with the methods established by paragraph 9 of this Article, without such apportionment of the taxation objects and objects related to taxation themselves.

9. Splitting general and indirect income and costs for each contractual activity shall be performed by the subsurface user independently with respect to the specificity of activity or performance of subsurface use operations on the basis of one or several

methods for keeping separated tax accounting, which are adopted by the subsurface user in the tax accounting policy, in particular:

1) According to the unit weight of direct income, which is related to each specific subsurface user contract and non-contractual activity, in the total amount of income earned by the subsurface user for the tax period;

2) According to unit weight of volumes of production of mineral resources under each specific subsurface use contract in the total volume of production of mineral resources under all the subsurface use contracts of the taxpayer;

3) According to unit weight of direct costs, which are related to each specific subsurface use contract and non-contractual activity in the total amount of costs, which have been incurred by the subsurface user for the tax period;

4) According to unit weight of costs incurred with respect to one of the following objects - direct production costs, work remuneration fund or cost of fixed assets, which are related to each specific subsurface use contract and non-contractual activity, in the total amount of costs under said object, which have been incurred by the subsurface user for the tax period;

5) According to unit weight of the average listed number of employees, who participate in contractual activity, in the total average listed number of employees of the subsurface user;

6) Other methods.

In relation to various of general and indirect income and costs, different methods for their splitting may be applied, which are established by this paragraph.

For more accurate splitting general and (or) indirect income and costs the volume of unit weight, which has been obtained as a result of application of one of the aforesaid methods, shall be determined by the subsurface user in per cent up to one hundredth share (0,01%).

10. For the purposes of assessing the corporate income tax with regard to contractual activity, the subsurface user, where it has transferred produced oil and (or) mineral raw materials which passed primary processing (concentration) for further processing to another legal entity (without transfer of the right of ownership) and (or) to a structural subdivision within the framework of one legal entity or where it uses them for own industrial needs, shall determine income under such a transaction at the actual industrial production and primary processing (concentration) cost, which is determined in accordance with the international financial reporting standards and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting, to be increased by 20 per cent.

In the case of selling mineral raw materials after its primary processing (concentration), the annual aggregate income in such transactions shall comprise income computed on the basis of the selling price, but not lower than the commodity

cost resulting from primary processing (concentration) subject to compliance with the legislation of the Republic of Kazakhstan on transfer pricing.

For the purposes of this part, a mine, quarry, pit, crushing facility (machine), concentration factory, processing, production or metallurgical shop (plant) shall be recognized as other technological units of the legal entity.

11. The provisions of this Article concerning keeping separate tax accounting for the assessment of tax liabilities, except for the tax liability with respect to the tax on production of mineral resources, shall not cover the tax liability, which arises with respect to the followings of subsurface use contracts:

- 1) For exploration and (or) production of widespread mineral resources;
- 2) For exploration and (or) production of underground waters;
- 3) For exploration and (or) production of therapeutic mud;
- 4) For construction and (or) operation of underground structures, which are not related to exploration and (or) production.

12. The operations and (or) results of activity under the subsurface use contracts, which are specified in paragraph 11 of this Article, which are a part of activity under contracts for performance of oil or mining operations, shall be presented in the tax accounting for the relevant oil or mining subsurface use contract with respect to specifics in the procedure for keeping separate tax accounting of the subsurface user.

**Footnote. Article 310 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2009).**

## **Chapter 43. BONUSES**

### **Article 311. General provisions**

1. Bonuses are the subsurface user's fixed payments.
2. Depending on the and terms of the concluded subsurface use contract the followings of bonuses may be established for the subsurface user:
  - 1) Signature bonus;
  - 2) Commercial discovery bonus.

#### **§ 1. The signature bonus**

### **Article 312. General provisions**

The signature bonus shall be a one-time fixed payment of the subsurface user for the acquisition of the right of subsurface use within a contract territory.

### **Article 313. The payers**

The payer of signature bonus is a legal entity or individual who became a winner of tender for getting right of subsoil use or obtained right for subsoil use on the basis of direct negotiations on granting the right of subsoil use in accordance with the legislation of the Republic of Kazakhstan on subsoil and subsoil use, and entered into one of the following contracts for subsoil use under the procedure established by the legislation of the Republic of Kazakhstan:

- 1) Exploration contract;
- 2) Contract for production operations;
- 3) Combined exploration and production contract.

The provision of sub-paragraph 2) of the first part of this Article does not apply to subsoil users who entered into contract on the basis of exclusive right for obtaining right for production due to commercial discovery within the contract for exploration on the relevant contractual area.

**Footnote.** Article 313 is in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

#### **Article 314. Procedure for defining amount of signature bonus**

1. Starting value of signature bonus shall be determined individually for every concluded contract for subsoil use in the following amounts:

1) For contracts on geological exploration on the territory where approved reserves of minerals are unavailable:

For oil contract - 2800-fold amount of monthly calculation index established by the Law On Republican Budget and effective as of the date of publishing conditions of tender or signing minutes of direct negotiations on granting subsoil use rights in accordance with the legislation of the Republic of Kazakhstan on Subsoil and Subsoil Use;

For contracts for exploration of mineral raw materials, except for contract for the development of anthropogenic mineral formations, - 280-fold amount of monthly calculation index, established by the Law on Republican Budget and effective as of the date of publishing conditions of tender or signing minutes of direct negotiations on granting subsoil use rights in accordance with the legislation of the Republic of Kazakhstan on Subsoil and Subsoil Use;

For contracts on widespread mineral resources, underground water and therapeutic muds - 40-fold amount of monthly calculation index, established by the Law on Republican Budget and effective as of the date of publishing conditions of tender or signing minutes of direct negotiations on granting subsoil use rights in accordance with the legislation of the Republic of Kazakhstan on Subsoil and Subsurface Use;

2) For production and combined exploration and production contracts:

For oil contracts:

If reserves are not approved, - 3000-fold amount of monthly calculation index, established by the Law on Republican Budget and effective as of the date of publishing conditions of tender or signing minutes of direct negotiations on provision of subsoil use rights in accordance with the legislation of the Republic of Kazakhstan On Subsoil and Subsoil Use;

If reserves are approved, - upon formula  $(C \cdot 0.04\%) + (C_p \cdot 0.01\%)$ , but not less than 3000-fold amount of monthly calculation index, established by the Law on Republican Budget, and effective as of the date of publishing conditions of tender or signing minutes of direct negotiations on provision of subsoil use rights in accordance with the legislation of the Republic of Kazakhstan on Subsoil and Subsoil Use, where:

$C$  - cost of summary reserves of crude oil, gas condensate or natural gas, approved by the State Committee on Minerals Reserves of the Republic of Kazakhstan, by industrial categories  $C_1, C_2, C_3$ ,

$C_p$  - summary cost of preliminarily estimated reserves of  $C_2$  category, approved by and (or) accepted in report of the State Committee on Minerals Reserves of the Republic of Kazakhstan, for efficient calculation of reserves of potentially commercial object and forecast resources of  $C_3$  category;

For contracts on production of mineral raw materials and combined exploration and production operations, except for contracts for the development of anthropogenic mineral formations:

If reserves are not approved, - 500-fold amount of monthly calculation index, established by the Law on Republican Budget and effective as of the date of publishing conditions of tender or signing minutes of direct negotiations on granting subsoil use rights in accordance with the legislation of the Republic of Kazakhstan on Subsoil and Subsoil Use;

If reserves are approved, upon formula  $(C \cdot 0.01\%) + (C_p \cdot 0.005\%)$ , but not less than 500-fold amount of monthly calculation index, established by the Law on Republican Budget, and effective as of the date of publishing conditions of tender or signing minutes of direct negotiations on provision of subsoil use rights in accordance with the legislation of the Republic of Kazakhstan on Subsoil and Subsoil Use, where:

$C$  - cost of summary reserves of mineral resources, approved by State Committee on Minerals Reserves of the Republic of Kazakhstan, by industrial categories  $C_1, C_2, C_3$ ,

$C_p$  - summary cost of preliminarily estimated reserves of mineral resources of  $C_2$  category, approved by and (or) accepted in report of the State Committee on Minerals Reserves of the Republic of Kazakhstan, for efficient calculation of reserves of potentially commercial object and forecast resources;

For contracts on widespread mineral resources, underground water and therapeutic muds - upon formula ( $0.01\%$ ), but not less than 120-fold amount of monthly calculation index, established by the Law on Republican Budget and effective as of the date of publishing conditions of tender or execution minutes of direct negotiations on provision of subsoil use rights in accordance with the legislation of the Republic of Kazakhstan on Subsoil and Subsoil Use.

In addition, starting value of signature bonus for production contracts may not be less than amount of commercial discovery bonus calculated in accordance with articles 319-322 of this Code, except for contracts for natural gas production stated in sub-paragraph 1-1 of paragraph 2 of this Article;

3) For contracts for refining anthropogenic mineral formations - upon formula ( $0.01\%$ ), but not less than 300-fold amount of monthly calculation index, established by the Law on Republican Budget and effective as of the date of publishing conditions of tender or signing minutes of direct negotiations on granting of subsoil use rights in accordance with the legislation of the Republic of Kazakhstan on Subsoil and Subsoil Use;

4) For contracts for the exploration of subsoil for discharge of waste water, and construction and (or) exploitation of underground constructions, not associated with the development and (or) production, - 400-fold amount of monthly calculation index, established by the Law on Republican Budget and effective as of the date of publishing conditions of tender or signing minutes of direct negotiations on provision of subsoil use rights in accordance with the legislation of the Republic of Kazakhstan on Subsoil and Subsoil Use.

2. The cost of minerals reserves shall be determined as follows:

1) For crude oil, gas condensate and natural gas, except natural gas stated in sub-paragraph 1-1 of this paragraph, - based on arithmetic mean of prices quotations for crude oil, gas condensate and natural gas in foreign currency in accordance with article 334 of this Code as of the day, preceding to the day of publishing condition of tender or signing minutes of direct negotiations on provisions of subsoil right in accordance with the legislation of the Republic of Kazakhstan on Subsoil and Subsoil Use, with the application of market exchange rate of tenge to appropriate foreign currency, established as of the date of signature bonus payment. In addition, for the determination of the cost of crude oil and gas condensate reserves, approved by the authorized for these purposes state body of the Republic of Kazakhstan, an arithmetic mean of prices quotations of standard sort of crude oil, specified in paragraph 3 of article 334 of this Code, the value of which as of specified date is maximal, shall be used;

1-1) for natural gas under a subsoil use contract providing for obligations of subsoil user concerning the minimum volume of supply of the extracted natural gas to the



domestic market of the Republic of Kazakhstan at the price to be determined by the Government of the Republic of Kazakhstan, - using the following formula:

$P = V_1 * P_1 + V_2 * P_2$ , where:

$V_1$  - the natural gas reserves approved by the State Committee for Mineral Reserves of the Republic of Kazakhstan by industrial categories 1, 2, 3, held for sale in the domestic market of the Republic of Kazakhstan;

$V_2$  - the volume of the natural gas reserves approved by the State Committee for Mineral Reserves of the Republic of Kazakhstan by industrial categories 1, 2, 3, except for  $V_1$ ;

$P_1$  - the price to be determined by the Government of the Republic of Kazakhstan;

$P_2$  - the arithmetic mean value of price quotations for natural gas to be determined in accordance with sub-paragraph 1) of this paragraph;

$P = V_1 * P_1 + V_2 * P_2$ , where:

$V_1$  - the volume of the reserves of natural gas of category 2 approved by the State Committee for Mineral Reserves of the Republic of Kazakhstan and/or taken into consideration in the opinion of the specified Commission, for current estimation of reserves of the potentially commercial facilities and projected resources of category 3 to be sold in the domestic market of the Republic of Kazakhstan;

$V_2$  - the volume of the natural gas reserves of category 2 approved by the State Committee for Mineral Reserves of the Republic of Kazakhstan and/or taken into consideration in the opinion of the specified Committee, for current estimation of reserves of the potentially commercial object and projected resources of category 3, except for  $V_1$ ;

$P_1$  - the price to be determined by the Government of the Republic of Kazakhstan;

$P_2$  - the arithmetic mean value of price quotations for natural gas to be determined in accordance with sub-paragraph 1) of this paragraph;

2) For minerals specified in sub-paragraphs 1) and 2) of paragraph 2 of article 338 of this Code, - based on arithmetic mean of prices quotations for mineral in foreign currency in accordance with article 338 of this Code as of the day, preceding to day of publishing conditions of tender or signing execution minutes of direct negotiations on provision of subsoil use right in accordance with the legislation of the Republic of Kazakhstan on Subsoil and Subsoil use, with the application of market exchange rate of tenge to appropriate foreign currency, established as of the date of signature bonus payment.

If within one day, preceding to the day of publishing conditions of tender or signing minutes of direct negotiations, there are no published official prices quotations for respective of minerals, official prices quotations of the last day, for which such prices quotations were published before, shall be applied.

If there is no established stock exchange price for minerals, starting value of signature bonus for production contracts in relation to respective of minerals, shall be established in minimal values, determined by sub-paragraphs 2) and 3) of paragraph 1 of this article.

3. Starting value of signature bonus prior to tender for obtaining subsoil use right may be increased upon the resolution of tender committee of a competent body.

4. Final amount of signature bonus in the amount of not less than starting value shall be determined by resolution of tender committee upon results of carried out tender for getting right of subsoil use or by competent body upon the results of direct negotiations with subsoil user and shall be included into contract for subsoil use.

Footnote. Article 314 is in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (the order of enforcement see in Article 9).

#### **Article 315. Deadlines for payment of the signature bonus**

Footnote. The title as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).

Signature bonus shall be paid to budget at taxpayer's location within the following terms:

1) fifty per cent of the established amount - within thirty calendar days from the date of the announcement of the taxpayer as a winner of the tender or of signing minutes of direct negotiations on granting subsoil use right in accordance with the legislation of the Republic of Kazakhstan on the subsurface and subsurface use;

2) fifty per cent of the established amount - not later than thirty calendar days from the date of entry of the subsurface use contract in force.

Footnote. Article 315 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).

#### **Article 316. The tax declaration**

The signature bonus declaration shall be presented by the subsurface user to the tax authority in the place of location before the 15th day of the second month following the month, in which the payment became due.

### **§ 2. The commercial discovery bonus**

#### **Article 317. General provisions**

1. The commercial discovery bonus shall be paid by subsurface users within the frames of the contracts:

1) On production of mineral resources in the following cases:

For each commercial discovery of mineral resources on contractual territory, previously declared by this subsurface user on the corresponding contractual territory in the frames of contract on exploration;

For discovery during additional exploration of a field, leading to increase of initially established by authorized for this state body of the Republic of Kazakhstan extracted resources of mineral resources;

2) For combined exploration and production for each commercial discovery of mineral resources on contractual territory including discoveries during additional exploration of a field, leading to increase of initially established by authorized for this state body of the Republic of Kazakhstan extracted resources of mineral resources.

2. Commercial discovery bonus shall not be paid in respect of contracts for exploration of fields of mineral resources that do not provide their subsequent production.

**Footnote. Article 317 is in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 318. The payers**

The payers of the commercial discovery bonus shall be subsurface users, who have announced commercial discoveries of mineral resources in the contract territory when performing subsurface use operations within the framework of concluded subsurface use contracts.

#### **Article 319. Taxation object**

A taxation object with regard to the commercial discovery bonus shall be a physical volume of recoverable reserves of mineral resources, which has been approved by the state body authorized for those purposes within this contract territory.

#### **Article 320. The tax base**

The tax base to assess the commercial discovery bonus shall be the value of the volume of recoverable reserves of mineral resources, approved by the state body authorized for those purposes.

In order to assess the commercial discovery bonus the value of the volume of recoverable reserves of mineral resources shall be defined at the date preceding the date of the commercial discovery bonus payment according to the following procedure:

1) For crude oil, natural gas liquids and natural gas - based on arithmetical mean of price quotation value for crude oil, natural gas liquids and natural gas in foreign currency in compliance with Article 334 of this Code at the date preceding the date of

the commercial discovery bonus payment applying market exchange rate of tenge to the appropriate foreign currency established at the date of the commercial discovery bonus payment. At that to define the crude oil and natural gas liquids value there applied arithmetical mean of price quotations for standard grade of the crude oil stipulated in paragraph 3 of Article 334 of this Code which value at the stipulated date is maximum;

2) for mineral resources stipulated in sub-paragraph 1) and 2) of paragraph 2 of Article 338 of this Code - based on arithmetical mean of price quotations for the useful mineral in foreign currency in compliance with Article 338 of this Code at the date preceding the date of the commercial discovery bonus payment applying market exchange rate of tenge to the appropriate foreign currency established at the date of the commercial discovery bonus payment.

If the official price quotations for the appropriates of mineral resources are not published at the date preceding the date of the commercial discovery bonus payment, there shall be applied official price quotations of the last date when such price quotations were published earlier.

For mineral resources except the crude oil, natural gas liquids, natural gas and the mineral resources which are quoted at London Metal Exchange or London Precious Metal Exchange, the value of recoverable reserves shall be defined on the basis of amount of planned mining expenses stipulated in the technical-and-economic justification of the contract approved by the state body of the Republic of Kazakhstan authorized for this purposes which should be increased by 20 per cent.

**Footnote. Article 320 is in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 321. The procedure for assessment of the commercial discovery bonus**

The amount of the commercial discovery bonus shall be determined on basis of the taxation object, tax base and the rate.

#### **Article 322. The rate of the commercial discovery bonus**

The commercial discovery bonus shall be paid at the rate of 0,1 per cent of the tax base.

#### **Article 323. Deadlines for payment of the commercial discovery bonus**

The commercial discovery bonus shall be paid to the budget at the place of taxpayer location within the following deadlines:

1) Not later than within 90 days from the date of signing the contract on mineral resources production in cases stipulated in sub-paragraph 1) of paragraph 1 of Article 317 of this Code;

2) Not later than in 90 days from the date of the approval by the state body of the Republic of Kazakhstan authorized for these purposes of the volume of additionally recoverable reserves of mineral resources of the deposit at discovery of mineral resources in the course of additional exploration at the deposits;

3) Not later than in 90 days from the date of approval by the state body of the Republic of Kazakhstan authorized for these purposes of the volume of recoverable reserves of mineral resources of the deposit under the contract for combined exploration and production.

**Footnote. Article 323 is in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 324. The tax declaration**

The commercial discovery bonus declaration shall be submitted by the subsurface user to the tax authority at the place of location before the 15th day of the second month following the month, in which the payment became due.

### **Chapter 44. THE PAYMENT FOR COMPENSATION OF HISTORIC COSTS**

#### **Article 325. General provisions**

The payment for compensation of historic costs shall be a subsurface user's fixed payment for compensation of total costs, which were incurred by the state for geological surveys of contractual territory and exploration of fields before the conclusion of the subsurface use contract.

**Footnote. Article 325 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 326. The payers**

The payers of the payment for compensation of historic costs shall be subsurface users, who concluded subsurface use contracts in accordance with the procedure established by the legislation of the Republic of Kazakhstan, in relation to fields of mineral resources, for which the state incurred costs of geological surveys of contractual territory and exploration of fields before the conclusion of the contracts.

**Footnote. Article 326 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 327. The procedure for defining the payment for compensation of historic costs**

1. The amount of historic costs, which were incurred by the state for geological surveys of contractual territory and exploration of fields shall be calculated by the state body authorized for those purposes, in accordance with the procedure established by the Government of the Republic of Kazakhstan, and it shall be paid to the budget in accordance with provisions of this Article.

In accordance with the legislation of the Republic of Kazakhstan on the subsurface and subsurface use, a part of the amount of historic costs shall be paid to the budget in the form of a payment for the purchase of geological information, which is owned by the state.

The remaining part of the amount of historic costs shall be paid to the budget in the form of a payment for compensation of historic costs.

2. The liability of the payment for compensation of historic costs to the budget shall emerge from the date of conclusion of a confidentiality agreement between the subsurface user and the authorized state body for survey and use of the subsurface; as for subsurface use contracts, including production sharing agreements, which are concluded before January 1, 2009 and as of January 1, 2009 corresponding confidentiality agreements were not concluded, but should be concluded under the terms of subsurface use contracts, - this liability shall emerge from the date of conclusion of confidentiality agreement with the authorized state body that determines the amount of historic costs.

**Footnote. Article 327 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 328. Procedure and deadlines for payment**

1. The payment for compensation of historic costs, which were incurred by the state for geological surveys and production of the appropriate contract territory, shall be paid by the subsurface user to the budget at a place of its location from the beginning of the production stage after the commercial discovery according to the following procedure:

1) Where the total amount of the payment for compensation of historic costs, which were incurred by the state for geological surveys of the appropriate contract territory and production of fields, is an amount equal to or less than the 10000-times amount of the monthly calculation index established by the Law on Republican Budget and effective as of the date of conclusion of confidentiality agreement, then the payment for compensation of historic costs shall be paid not later than on 10th April of the year following the year, in which the subsurface user started production of mineral resources.

In respect of subsurface use contracts concluded before January 1, 2009, under which the subsurface user started production of mineral resources before January 1,

2009, if the uncompensated amount of historical costs is an amount equal to or less than the 10000-times amount of the monthly calculation index, established as of the January 1, 2009 by the Law on Republican Budget, payment for compensation of historical costs shall be paid not later than April 10, 2010;

2) Where the total amount of the payment for compensation of historical costs, which were incurred by the state for geological surveys of the contract territory and exploration of fields, is an amount that exceeds the 10000-times amount of the monthly calculation index established by the Law on Republican budget and effective as of the date of conclusion of confidentiality agreement, then the payment for compensation of historic costs shall be paid by the subsurface user quarterly not later than 25 day of the second month following the reporting quarter, in equal portions during a period not more than ten years in an amount equivalent to not less than the 2500-times amount of the monthly calculation index established by the Law on Republican Budget and effective as of the date of conclusion of confidentiality agreement, except for the amount of last portion, which could be less than the amount equal to 2500-times amount of the monthly calculation index established by the Law on Republican Budget and effective as of the date of conclusion of confidentiality agreement.

In respect of subsurface use contracts concluded before January 1, 2009, under which the subsurface user started production of mineral resources before January 1, 2009, if the unpaid to budget amount of historical costs as of January 1 exceeds 10000-times amount of the monthly calculation index, established as of the January 1, 2009 by the Law on Republican Budget, payment for compensation of historical costs shall be paid by subsurface user quarterly not later than 25 day of the second month following the reporting quarter in equal portions during a period not longer than ten years in the amount not less than 2500 - times amount of the monthly calculation index established as of January 1, 2009 by the Law on Republican Budget except for the amount of last portion, which could be less than the amount equal to 2500-times amount of the monthly calculation index established by the Law on Republican Budget as of January 1, 2009.

2. Where the amount of historical costs incurred by the state for geological survey of a contract territory and exploration of fields is established by authorized for these purposes state body of the Republic of Kazakhstan in foreign currency, then:

1) For the purposes of determining the total amount of payment in tenge to establish the order of payment in accordance with this article, the amount of historical costs calculated by the authorized for this state body of the Republic of Kazakhstan, shall be recalculated in tenge at a market rate of currency exchange, established for the first day of a reporting quarter, in which subsurface user started production after commercial discovery, and in respect of subsurface use contracts concluded before January 1, 2009 under which subsurface user started production of mineral resources



before January 1, 2009, and that was not paid to budget as of January 1, 2009 - shall be recalculated in tenge at the market rate of currency exchange, established as of January 1, 2009;

2) For the purposes of equal distribution of amount of historical costs unpaid to budget in foreign currency to the amounts of quarter payments subject to payment in accordance with sub-paragraph 2) of paragraph 1 of this Article, indicated amount of historical costs shall be recalculated at the beginning of each calendar year in tenge at market rate of currency exchange, established as of 1 January of such calendar year.

3. In respect of contracts on exploration of fields of minerals, that do not provide for their subsequent production, payment on compensation of historical costs shall not be made.

**Footnote. Article 328 is in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

### **Article 329. Tax declaration**

1. Where the total amount of the payment for compensation of historic costs, which were incurred by the state for geological surveys of contract territory and exploration of fields, is an amount equal to or less than the 10000-times amount of the monthly calculation index established by the Law on Republican Budget and effective as of the date of conclusion of confidentiality agreement, the declaration shall be presented by the subsurface user to the tax authority in the place of location not later than on 31st March of the year following the year, in which the subsurface user started production of mineral resources.

In respect of subsurface use contracts concluded before January 1, 2009, under which the subsurface user started production of mineral resources before January 1, 2009, if the unpaid to the budget amount of historical costs, as of January 1, 2009, is an amount equal to or less than the 10000-times amount of the monthly calculation index, established as of the January 1, 2009 by the Law on Republican Budget, then declaration shall be submitted by the subsurface user to the tax body in the place of location not later than March 31, 2010.

2. Where the total amount of the payment for compensation of historic costs, which were incurred by the state for geological surveys of the contract territory and field exploration, is an amount that exceeds the 10000-times amount of the monthly calculation index established by the Law on Republican Budget and effective as of the date of conclusion of confidentiality agreement, the declaration shall be submitted by the subsurface user to the tax authority in the place of location quarterly, not later than on 15th day of the second month following the reporting quarter.

In respect of subsurface use contracts concluded before January 1, 2009, under which the subsurface user started production of mineral resources before January 1,



2009, if the unpaid to the budget amount of historical costs, as of January 1, 2009, is an amount that exceeds 10000-times amount of the monthly calculation index, established as of the January 1, 2009 by the Law on Republican Budget, then declaration shall be submitted by the subsurface user to the tax body in the place of location not later than the 15th day of the second month following the reporting quarter.

**Footnote. Article 329 is in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

## **Chapter 45. TAX ON PRODUCTION OF MINERAL RESOURCES**

### **Article 330. General provisions**

1. The tax on production of mineral resources shall be paid by the subsurface user separately by each of mineral raw materials, oil, underground waters and therapeutic mud, which are produced in the territory of the Republic of Kazakhstan.

2. The tax on production of mineral resources shall be paid in money, except for the case stipulated by paragraph 3 of this Article.

3. During the course of performance of activity under the subsurface use contract the payment of the tax on production of mineral resources in money may be replaced with a payment in kind under a decision of the Government of the Republic of Kazakhstan in accordance with the procedure established by an additional agreement, to be concluded between the authorized state body and the subsurface user.

The procedure for payment of the tax on production of mineral resources, which is established by this Code, as well as of the royalty and share of the Republic of Kazakhstan under production sharing, which have been established by the subsurface use contracts indicated in paragraph 1 of Article 308-1 of this Code, in kind is established by Article 346 of this Code.

4. The tax on production of mineral resources with regard to all the kinds of produced mineral raw materials, oil, underground waters and therapeutic mud, irrespective of the of production which is performed, shall be paid at rates and in accordance with the procedure, which are established by this Chapter.

5. For the purposes of assessing the tax on production of mineral resources the volume of mineral resources, which was recovered from written-off reserves (the return of losses) at the field, as well as the volume of oil, mineral raw materials, underground waters and therapeutic mud, which was transferred to perform technological sampling and researches, shall be excluded from the total volume of oil, underground waters, therapeutic mud and exhausted reserves of mineral resources, which were produced for the tax period.

Volumes of oil, mineral raw materials, underground waters and therapeutic mud, which is transferred for technological sampling and researches, shall be limited to a

minimum mass of technological samples as indicated in the national standards for appropriates (grades) of oil, mineral raw materials, underground waters and therapeutic mud, and (or) is must be stipulated in the working program of the subsurface use contract.

**Footnote.** Article 330 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.20090); date 10.07.2012 No. 31-V (shall be enforced upon the expiry of ten days after its first official publication).

### **Article 331. The payers**

The payers of the tax on production of mineral resources shall be subsurface users, who perform production of petroleum, mineral raw materials, underground waters and therapeutic mud, including recovery of mineral resources from ethnogeny mineral formations within the framework of each certain concluded subsurface use contract.

### **§ 1. Tax on production of mineral resources on oil**

### **Article 332. Taxation object**

1. Physical volumes of crude oil, natural gas liquids and natural gas produced by subsurface user during the tax period shall be recognized as taxation object for levying the tax on production of mineral resources.

2. For the purposes of assessment of the tax on production of mineral resources, the total quantity of crude oil, natural gas liquids and natural gas produced by the subsurface user shall be subdivided as follows:

1) Crude oil, natural gas liquids sold for the processing to a refinery situated on the territory of the Republic of Kazakhstan- volumes of crude oil, natural gas liquids produced by the subsurface user within the framework of each individual subsurface use contract for the tax period and sold by subsurface user to a refinery situated on the territory of the Republic of Kazakhstan or to a third party for further sale to a refinery situated on the territory of the Republic of Kazakhstan;

2) Crude oil, natural gas liquids transferred for the processing as client's raw materials to a refinery situated on the territory of the Republic of Kazakhstan - volumes of crude oil, natural gas liquids produced by the subsurface user within the framework of each individual subsurface use contract for the tax period and transferred by subsurface user as client's raw materials for processing to a refinery

situated on the territory of the Republic of Kazakhstan or sold to a third party for further transfer as client's raw materials for the processing to a refinery situated on the territory of the Republic of Kazakhstan;

### Note of the RCL!

Sub-paragraph 2-1) shall be valid until 01.01.2015 in accordance with the Law of the Republic of Kazakhstan dated 22.06.2012 No. 21-V

2-1) crude oil transferred for processing under customs procedure of processing beyond the custom territory, - volume of crude oil, extracted by subsurface user under each separate contract to subsurface management within the tax period and transferred by subsurface user for processing under customs procedure of processing beyond the custom territory in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan at the refinery, located beyond the territory of the Customs Union, or sold to the third party for subsequent transfer for processing under customs procedure of processing beyond the custom territory in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan at the refinery, located beyond the territory of Customs Union.

For the purposes of this sub-paragraph, the list of subsurface users, conducting the transfer of crude oil for processing at the refinery, located beyond the territory of Customs Union, or selling to the third party for subsequent transfer for processing under customs procedure of processing beyond the custom territory in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan at the refinery, located beyond the territory of the Customs Union, and also the list of the oil-processing plants, located beyond the territory of Customs Union, and their conditions of processing of the crude oil shall be confirmed by the authorized body in the field of oil and gas.

In case if after termination of customs procedure of crude oil processing beyond the custom territory, the factual importation of processed products is not carried out to the Republic of Kazakhstan in volumes, mentioned in the document of conditions of products processing beyond the custom territory, with the exception of products, established by the Government of the Republic of Kazakhstan, all the crude oil, transferred for processing under customs procedure of processing beyond the custom territory, shall be considered as commercial crude oil for the purposes of calculation of tax on production of mineral resources;

3) Crude oil, natural gas liquids used by the subsurface user for own industrial needs - volumes of crude oil, natural gas liquids produced by the subsurface user within the framework of each individual subsurface use contract for the tax period, used for own industrial needs during the tax period;

4) crude oil, natural gas liquids physically transferred by the subsurface user paying on account of tax on production of mineral resources, rent export tax, royalty and share of the Republic of Kazakhstan according to production sharing to the payee on behalf of the state in compliance with Article 346 of this Code;

5) Natural gas sold in the domestic market of the Republic of Kazakhstan and (or) used for own industrial needs;

Natural gas used for own industrial needs shall be recognized natural gas:

Used by a subsoil user in carrying out operations relating to subsoil use as fuel in oil treatment;

For industrial and household boiler stations;

For wellhead heating and transportation of oil;

For electric power generation;

For reinjection to the extent provided for by the approved project documents except for cases of reinjection provided for by paragraph 4 of this article;

**Note of the RCL!**

**Subparagraph 6) operates until 01.01.2015 in accordance with the Law of the Republic of Kazakhstan dated 22.06.2012 No. 21-V.**

6) Commercial crude oil, natural gas liquids and natural gas - total quantity of crude oil, natural gas liquids and natural gas produced by the subsurface user for the tax period within the framework of each individual subsurface use contract, less volumes of crude oil, natural gas liquids and natural gas mentioned in sub-paragraphs 1), 2), 2-1), 3), 4) and 5) of this paragraph unless otherwise provided for by this Article.

3. For the confirmation of sale to a refinery situated on the territory of the Republic of Kazakhstan or to a third party for further sale to a refinery situated on the territory of the Republic of Kazakhstan stipulated in sub-paragraph 1) of paragraph 2 of this Article, and for the confirmation of transfer as client's raw materials for processing to a refinery situated on the territory of the Republic of Kazakhstan or sale to a third party for further transfer as client's raw materials for the processing to a refinery situated on the Republic of Kazakhstan territory stipulated in sub-paragraph 2) of paragraph 2 of this Article, the subsurface user shall be obliged to have originals of commercial and shipping documents or their notarized copies confirming physical volumes and fact of acceptance by a refinery situated on the territory of the Republic of Kazakhstan of the appropriate volumes of the crude oil and natural gas liquids, and for the confirmation of sale to a refinery situated on the territory of the Republic of Kazakhstan or to a third party for further sale to a refinery situated on the territory of the Republic of Kazakhstan stipulated in sub-paragraph 1) of paragraph 2 of this Article - also originals of the documents or their notarized copies confirming actual purchase price of a refinery situated on the territory of the Republic of Kazakhstan for the appropriate volumes.

If there are no originals of such documents or their notarized copies, the appropriate volumes of crude oil and natural gas liquids are considered as commercial crude oil, natural gas liquids for the purposes of the tax on production of mineral resources assessment.

**Note of the RCL!**

**paragraph 3-1 shall be valid until 01.01.2015 in accordance with the Law of the Republic of Kazakhstan dated 22.06.2012 No. 21-V**

3-1. In order to confirm of mentioned in sub-paragraph 2-1) of paragraph 2 of this Article, the transfers by subsurface users for processing under customs procedure of processing beyond the custom territory in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan at the refinery, located beyond the territory of the Customs Union, or selling to the third party for subsequent transfer for processing under customs procedure of processing beyond the custom territory in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan at the refinery, located beyond the territory of Customs Union, the subsurface user shall have originals or notarized copies of the following documents confirming physical volume and fact of placing of goods and their processed products under correspond custom procedure:

- bills of goods confirming the placing of goods and their processed products under corresponding custom procedure;

- document on conditions of processing of goods beyond the custom territory;

- conclusion of the authorized body in the field of oil and gas regarding the crude oil volume, produced by specific subsurface user under each separate contract to subsurface use and subject to selling to the third party for subsequent transfer for processing under customs procedure of processing beyond the custom territory in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan and also volumes of processed products, received from the mentioned volumes, which are subject to export for processing of crude oil in separately for each subsurface user under each separate contract to subsurface use;

- reports on appliance of customs procedure of processing beyond the custom territory;

- commercial and shipping documents and (or) acceptance-transfer certificates for goods and processed products;

- conclusion of the authorized body in the field of oil and gas on actual volumes of imported processed products derived from the volumes of crude oil produced by the specific subsurface user under each of subsurface use contracts and sold to a third party for the subsequent transfer for processing under customs procedure of processing beyond the customs territory in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan to the oil refinery , which is located beyond the territory of the Customs Union.

In the absence of such original documents or their notarized copies the appropriate amount of crude oil is considered as a tradable crude oil for the purposes of calculating the tax on production of mineral resources.

4. The tax on production of mineral resources shall not be paid on the natural gas in volume pumped back into deposits with the purpose of increasing the oil recoverability factor, provided by the approved project documentation.

**Note of the RCLII!**

Paragraph 5 shall operate until 01.01.2011 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV.

5. For the purposes of this Article volumes of natural gas burned in torches, shall be exempt from tax on production of mineral resources.

**Footnote. Article 332 in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011), dated 22.06.2012 No. 21-V (shall be enforced upon the expiry of ten days after its first official publication).**

### **Article 333. Tax base**

The value of crude oil, natural gas liquids and natural gas produced in the tax period shall be recognized as tax base for the assessment of the tax the extraction of commercial minerals.

### **Article 334. The procedure for defining the value of crude oil, natural gas liquids and natural gas**

1. For the purposes of the assessment of the tax on production of mineral resources, the value of crude oil and natural gas liquids produced for the tax period, shall be defined in accordance with the following procedure:

1) When sold by the subsurface user to a refinery, situated on the territory of the Republic of Kazakhstan, or to the third party for subsequent sale to a refinery, situated on the territory of the Republic of Kazakhstan, - as the product of multiplying the actual quantity of crude oil, natural gas liquids sold by the subsurface user to a refinery, situated on the territory of the Republic of Kazakhstan, or to the third party for subsequent sale to a refinery, situated on the territory of the Republic of Kazakhstan and actual purchase price of the refinery, situated on the territory of the Republic of Kazakhstan per unit of product;

2) When transferred by the subsurface user for processing as client's raw materials to a refinery, situated on the territory of the Republic of Kazakhstan, or sold to the third party for subsequent transfer for processing as client's raw materials to a refinery,



situated on the territory of the Republic of Kazakhstan, and (or) used by the subsurface user for own industrial needs - as the product of multiplying the actual quantity of crude oil, natural gas liquids delivered by the subsurface user as client's raw materials for processing to a refinery, situated on the territory of the Republic of Kazakhstan, or sold to the third party for subsequent transfer as client's raw materials to a refinery, situated on the territory of the Republic of Kazakhstan, and (or) used by the subsurface user for own industrial needs, and the industrial production cost of unit production to be determined in accordance with international accounting standards and the requirements of the Law of the Republic of Kazakhstan on accounting and financial reporting increased by 20 per cent;

**Note of RCLII!**

**Subparagraph 2-1) shall be valid until 01.01.2015 in accordance with the Law of the Republic of Kazakhstan dated 22.06.2012 No. 21-V.**

2-1) when crude oil is transferred by the subsurface user for processing under the customs procedure of processing beyond the customs territory in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan at the refinery, located beyond the territory of the Customs Union, or for the transfer to the third party to the subsequent transfer for processing under the customs procedure of processing beyond the customs territory in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan at the refinery, which is located beyond the territory of the Customs Union - as the product of the actual volume of crude oil, transferred by the subsurface user as processing under the customs procedure of processing beyond the customs territory in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan at the refinery, located beyond the territory of the Customs Union, or sold to a third party for the subsequent transfer for processing under the customs procedure of processing beyond the customs territory in accordance with the customs legislation of the Customs Union and (or) the customs legislation of the Republic of Kazakhstan at the refinery, which is located beyond the territory of the Customs Union, and with the production cost of the production for per unit of output, as determined in accordance with International Financial Reporting Standards and the requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting, increased by 20 per cent;

3) When crude oil and natural gas liquids are to be transferred by the subsurface user in-kind as the payment of the tax on production of mineral resources, rental tax on exported crude oil and natural gas liquids, royalties and the share of the Republic of Kazakhstan under production sharing with beneficiary on behalf of the State - as the product of multiplying the actual quantity of crude oil, natural gas liquids transferred by the subsurface user in-kind as the payment of tax on production of mineral

resources, rental tax on exported crude oil and natural gas liquids, royalties and the share of the Republic of Kazakhstan share in-kind under production sharing with beneficiary on behalf of the State in accordance with Article 346 of this Code, and cost of transfer to be determined in accordance with the procedure established by the Government of the Republic of Kazakhstan.

2. The value of commercial crude oil, natural gas liquids and natural gas produced by the subsurface user within the framework of each individual subsurface use contract in the tax period, shall be determined as the product of multiplying the quantity of produced commercial crude oil, natural gas liquids and natural gas and the world price of unit production as computed for the tax period in accordance with paragraph 3 of this Article.

3. World price of crude oil and natural gas liquids shall be determined as simple average value of daily quotations for the tax period and simple average market exchange rate of tenge to corresponding foreign currency for a given tax period in accordance with the following formula.

For the purposes of this paragraph quotation means quotation of crude oil in foreign currency for each individual standard of crude oil "Urals Mediterranean" (UralsMed) or "Dated Brent" (BrentDtd) in the tax period on the basis of information which is published in the "PlattsCrudeOil Marketwire" publication of the "The McGraw-HillCompaniesInc" company.

When there is no information on prices for said standard sort of crude oil in that publication the prices for said standard sort of crude oil shall be used:

According to the data of the "Argus-Crude" of the "ArgusMediaLtd" Company;

When there is no information on prices of said brands in the above-mentioned publications - use the data from other publications to be determined by the Law of the Republic of Kazakhstan on transfer pricing.

In this case in order to determine the world price of crude oil and natural gas liquids, converting of units of measurement from barrel into metric ton taking into account the actual density and temperature of the produced crude oil, corrected to standard measurement conditions and indicated in oil certificate of quality shall be made in accordance with the national standard, approved by the authorized State body in the field of technical regulation.

World price of crude oil and natural gas liquids shall be determined using the following formula:

$$S = P_1 + P_2 + \dots + P_n \cdot E$$

n, where:

S - world price of crude oil and natural gas liquids for the tax period;

P<sub>1</sub>, P<sub>2</sub>, ..., P<sub>n</sub> - daily simple average world price on dates of the publication of quotations during the tax period;



E - simple average market exchange rate of tenge to corresponding foreign currency for a given tax period;

n - number of days in a tax period on which quotations were published.

Daily simple average quotation shall be determined in accordance with the following formula:

$$P_n = \frac{C_{n1} + C_{n2}}{2},$$

where:

$P_n$  - daily simple average quotation;

$C_{n1}$  - minimal value of daily quotation for standard of crude oil "Urals Mediterranean" (UralsMed) or "Dated Brent" (BrentDtd);

$C_{n2}$  - maximum value of daily quotation for standard of crude oil "Urals Mediterranean" (UralsMed) or "Dated Brent" (BrentDtd). The recognition of crude oil and natural gas liquids as certain standard "Urals Mediterranean" (UralsMed) or "Dated Brent" (BrentDtd) shall be carried out by the subsurface user on the basis of agreements for selling crude oil. Where in a sale agreement no standard of crude oil is specified or of crude oil not falling into these standards is specified, the subsurface user shall be obliged to recognize the quantity of crude oil supplied under such contract to that of which the average world price in the tax period is maximum price.

4. World price of natural gas shall be determined as simple average value of daily quotations in foreign currency for the tax period taking into consideration converting of international units of measurement into cubic meter based on the approved factor and simple average market exchange rate of tenge to corresponding foreign currency for a given tax period in accordance with the following formula.

For the purposes of this paragraph quotation means quotation of the natural gas in foreign currency for natural gas "ZeebruggeDay-Ahead" in the tax period on the basis of information which is published in the "PlattsEuropeanGasDaily" publication of the "TheMcgraw-HillCompaniesInc" company.

When there is no information on the price of the natural gas "ZeebruggeDay-Ahead" in that publication, use the price for the natural gas "ZeebruggeDay-Ahead":

According to "ArgusEuropeanNaturalGas" publication of the "ArgusMediaLtd" company;

When there is no information on the price of the natural gas "ZeebruggeDay-Ahead" in the above-mentioned publications, use the data from other publications to be determined by the Law of the Republic of Kazakhstan on transfer pricing.

World price of the natural gas shall be determined using the following formula:

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$$S = \frac{\sum_{i=1}^n P_i}{n}, X$$

$n$

, where:

$S$  - world price of natural gas for the tax period;

$P_1, P_2 \dots P_n$  - daily simple average world price on dates of the publication of quotations during the tax period;

$E$  - simple average market exchange rate of tenge to corresponding foreign currency for a given tax period;

$n$  - number of days in a tax period on which quotations were published.

Daily simple average quotation shall be determined in accordance with the following formula:

where:

daily simple average quotation;

$$C_{n1} + C_{n2}$$

$$P_n = \frac{\quad}{2},$$

2

where:

$P_n$  - daily simple average quotation

$C_{n1}$  - minimal value of daily quotation for the natural gas "ZeebruggeDay-Ahead";

$C_{n2}$  - maximum value of daily quotation for the natural gas "ZeebruggeDay-Ahead".

5. For the purposes of assessment of the tax on production of mineral resources, the value of the natural gas sold by the subsurface user in the domestic market of the Republic of Kazakhstan and (or) used for own industrial needs, shall be determined in accordance with the following procedure:

1) when the subsurface user sells produced natural gas in the domestic market of the Republic of Kazakhstan - based upon the average weighted price of sales which formed in the tax period, to be determined in accordance with the procedure established by paragraph 2 of Article 341 of this Code;

2) when using produced natural gas for own industrial needs - as the product of multiplying the actual quantity of the natural gas used by the subsurface user for own industrial needs and the industrial cost of unit production to be determined in accordance with international accounting standards and the requirements of the Law of the Republic of Kazakhstan on accounting and financial reporting, increased by 20 per

cent. Where natural gas is produced together with crude oil, the industrial production costs of the natural gas shall be determined on the basis of the industrial production cost of the crude oil with the following ratio:

One thousand cubic meters of natural gas correspond to 0.857 ton of crude oil.

6. The world price of the standards of crude oil, natural gas liquids and natural gas shall be determined for each tax period by the authorized body in accordance with the procedure established by this Code, and shall be subject to official publication in mass media not later than the 10th day of the month following the reporting tax period.

**Footnote.** Article 334 is in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); as amended by the Law of the Republic of Kazakhstan dated 22.06.2012 No. 21-V (shall be enforced upon the expiry of ten days after its first official publication), dated 10.07.2012 No. 31-V (shall be enforced upon the expiry of ten days after its first official publication).

#### **Article 335. The procedure for the assessment of the tax**

1. Amounts of tax on production of mineral resources to be paid to the budget shall be determined on the basis of the taxation object, tax base and tax rate.

2. For the assessment of the tax on production of mineral resources, the subsurface user during the calendar year shall apply a rate which is adequate to the planned production output for the current tax year for each individual subsurface use contract, in accordance with the scale shown in Article 336 of this Code.

For the purposes of ensuring the accuracy of the assessment and fullness of payment to the budget of the tax on production of mineral resources the subsurface user shall be obliged prior to the 20th January of the current calendar year to submit to the tax authorities at the place of location a confirmation of intended volumes of production output of crude oil, natural gas liquids and natural gas for the forthcoming year with regard to each individual subsurface use contract.

In that respect, intended production output of crude oil, natural gas liquids and natural gas for current year must be coordinated with the competent authority.

3. Where upon the results of the reporting calendar year the actual production output of crude oil, natural gas liquids and natural gas does not meet the pre-planned quantity and leads to a change of the rate of the tax on production of mineral resources, the subsurface user shall be obliged to carry out adjustment of the total tax on production of mineral resources, computed for the reporting year.

Adjustments of amounts of tax on production of mineral resources shall be carried out in the declaration for the last tax period of the reporting tax year by way of applying the tax rate of the tax on production of mineral resources corresponding to the actual production output of crude oil, natural gas liquids and natural gas to be determined in accordance with Article 336 of this Code, to the tax base as assessed in

the declaration of the tax on production of mineral resources for 1-3 quarters of the reporting tax year.

Total tax on production of mineral resources taking into account adjustments made, shall be recognized as the tax liability under the tax on production of mineral resources for the last tax period of the reporting year.

**Footnote. Article 335 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).**

#### **Article 336. The rates of the tax on production of mineral resources**

The rates of the tax on production of mineral resources relating to crude oil, including natural gas liquids, shall be fixed in accordance with the following scale:

No	Annual Production Output	Rates, %
1	2	3
1.	up to 250,000 tons inclusive	5
2.	up to 500,000 tons inclusive	7
3.	up to 1,000,000 tons inclusive	8
4.	up to 2,000,000 tons inclusive	9
5.	up to 3,000,000 tons inclusive	10
6.	up to 4,000,000 tons inclusive	11
7.	up to 5,000,000 tons inclusive	12
8.	up to 7,000,000 tons inclusive	13
9.	up to 10,000,000 tons inclusive	15
10.	in excess of 10,000,000 tons	18

When crude oil and natural gas liquids are sold and (or) transferred in the domestic market of the Republic of Kazakhstan, including in-kind as the payment of tax on production of mineral resources, rental tax on exported crude oil and natural gas liquids, royalties and shares of the Republic of Kazakhstan under production sharing with beneficiary on behalf of the State, or used for own industrial needs in the procedure, established by sub-paragraphs 1), 2), 3) and 4) of paragraph 2 of Article 332 of this Code, the reduction factor 0.5 shall be applied in respect to the established rates.

**Note of RCLII!**

**The paragraph shall be valid until 01.01.2015 in accordance with the Law of the Republic of Kazakhstan dated 22.06.2012 ? 21-V.**

In the case of selling, and (or) the transfer of crude oil in the order provided in sub-paragraph 2-1) of paragraph 2 of Article 332 of this Code the reduction factor of 0.5 applies to the prescribed rates. In the event that after the completion of the customs procedure of processing of crude oil beyond the customs territory the actual import of processed products is not carried out in the Republic of Kazakhstan in the bulks

prescribed in the conditions of processing of goods beyond the customs territory, with the exception of the products identified by the Government of the Republic of Kazakhstan, the reduction factor under this Article shall not apply to the entire crude oil transferred for processing under customs procedure of processing beyond the customs territory in accordance with the sub-paragraph 2-1) of paragraph 2 of Article 332 of this Code.

The rate of the tax on production of mineral resources relating to natural gas shall be 10 per cent.

When selling natural gas in the domestic market, the tax on production of mineral resources shall be paid in accordance with the following rates depending on the volume of annual production output:

No.	Annual Production Output	Rates, %
1	2	3
1.	up to 1.0 bln cu m inclusive	0,5
2.	up to 2.0 bln cu m inclusive	1,0
3.	in excess of 2.0 bln cu m	1,5

Footnote. Article 336 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 26.11.2010 No. 356-IV (shall be enforced from 01.01.2011); as amended by the Law of the Republic of Kazakhstan dated 22.06.2012 No. 21-V (shall be enforced upon the expiry of ten days after its first official publication).

## **§ 2. The tax on production of mineral resources on mineral raw materials, except for widespread mineral resources**

### **Article 337. Taxation object**

Physical volumes of reserves of mineral resources contained in mineral raw materials (taxable quantity of cancelled reserves), shall be recognized as taxation object.

For the purpose of this Section, the taxable quantity of cancelled reserves shall be understood as quantity of cancelled reserves of mineral resources contained in mineral raw materials, the extraction, use (marketing) of which are specified in the provisions of the subsurface use contract, less volumes of standard losses, for the tax period.

The quantity of standard losses for each extraction unit shall be established on the basis of the technical project for the development of a given field as approved by the state body of the Republic of Kazakhstan authorized for this purpose.

### **Article 338. Tax base**

1. The value of taxable volumes of recovered reserves of mineral resources contained in mineral raw materials for a tax period shall be recognized as tax base.

2. For the purposes of assessment of the tax on production of mineral resources, mineral raw materials shall be subdivided as follows:

1) Mineral raw materials containing only those mineral resources which are specified in paragraph 4 of this Article;

2) Mineral raw materials containing simultaneously mineral resources specified in paragraph 4 of this Article and others of mineral resources of which the extraction, use (marketing) are specified in the provisions of the subsurface use contract;

3) Mineral raw materials containing mineral resources, except for the mineral resources specified in paragraph 4 of this Article;

4) Mineral raw materials produced out of written-off reserves (recovery of losses) at a field;

5) Mineral raw materials produced from reserves of off-balance sheet reserves of a field.

3. For the purposes of assessment of the tax on production of mineral resources, the value of the taxable quantity of recovered reserves of mineral resources contained in mineral raw materials in a tax period shall be determined as follows:

1) for mineral resources contained in the taxable quantity of recovered reserves of mineral raw materials specified in sub-paragraph 1) of paragraph 2 of this Article, on the basis of the average exchange price for such mineral resources for the tax period.

Unless it is provided for otherwise by this Article, the average exchange price shall be determined as simple average value of daily average quotations for a tax period and market exchange rate of tenge to corresponding foreign currency for a given tax period in accordance with the below mentioned formula.

For the purposes of this Article quotation means quotation for useful mineral in foreign currency as fixed at the London Metal Exchange published in the magazine 'MetalBulletin' of the publishing house 'MetalBulletinJournalsLimited', magazine 'Metal-pages' of the publishing house 'Metal-pages Limited'.

Unless it is provided for otherwise by this Article, the average exchange price shall be determined in accordance with the following formula:

$$S = \frac{P_1 + P_2 + \dots + P_n}{n} \times E,$$

S - the average exchange price for mineral resources for a tax period;

P1, P2,..., Pn - the average daily quotation of prices in days, for which the quotations of prices in the London Metal Exchange were published within a tax period;

E - the arithmetic average market exchange rate of tenge to the appropriate foreign currency for the appropriate tax period;

n - the number of days in a tax period, for which the quotations of prices were published.

The average daily quotation of prices for mineral resources shall be determined by the formula:

$$C_{n1} + C_{n2}$$

$$P_n = \frac{\quad}{2}, \text{ where:}$$

2

P<sub>n</sub> - the average daily quotation of prices;

C<sub>n1</sub> - the average daily quotation of price Cash for mineral resource;

C<sub>n2</sub> - the average daily quotation of price Cash Settlement for mineral resource.

The average exchange price for gold, platinum, palladium shall be determined as the product of the arithmetic average of the daily average quotations of prices for a tax period and the arithmetic average market exchange rate of tenge to the appropriate foreign currency for the appropriate tax period by the following formula:

$$P_1 + P_2 + \dots + P_n$$

$$S = \frac{\quad}{n} \times E, \text{ where}$$

n

S - the average exchange price for gold, platinum, palladium for a tax period;

P<sub>1</sub>, P<sub>2</sub>, ..., P<sub>n</sub> - the daily average quotation of prices for gold, platinum, palladium in days, for which the quotations of prices in the London Stock Exchange of Precious Metals were published within a tax period;

E - the arithmetic average market exchange rate of tenge to the appropriate foreign currency for the appropriate tax period;

n - the number of days in a tax period, for which the quotations of prices were published.

The daily average quotation of prices for gold, platinum, palladium shall be determined by the formula:

$$C_{n1} + C_{n2}$$

$$P_n = \frac{\quad}{2}, \text{ where}$$

2

P<sub>n</sub> - the daily average quotation of prices;

C<sub>n1</sub> - the daily quotation of prices a.m. (the morning fixing) for gold, platinum, palladium;

C<sub>n2</sub> - the daily quotation of prices p.m. (the evening fixing) for gold, platinum, palladium.

The average exchange price for silver shall be determined as the product of the arithmetic average of daily quotations of prices for silver for a tax period and the

arithmetic average of the market exchange rate of tenge to the appropriate foreign currency for the appropriate tax period by the following formula:

$$P_1 + P_2 + \dots + P_n$$

$$S = \frac{\quad}{n} \times E, \text{ where:}$$

n

S - the average exchange price for silver for a tax period;

P<sub>1</sub>, P<sub>2</sub>, ..., P<sub>n</sub> - the daily quotation of prices for silver in days, for which the quotations of prices in the London Stock Exchange of Precious Metals were published within a tax period;

E - the arithmetic average market exchange rate of tenge to the appropriate foreign currency for the appropriate tax period;

n - the number of days in a tax period, for which the quotations of prices were published.

The average exchange price for mineral resource shall apply to a whole object of each of mineral resource containing in the taxable volume of repaid reserves of the mineral raw materials specified in paragraph 4 of this Article, including those to the volume transferred to other legal entities and (or) a structural unit within one legal entity for further processing and (or) use for own production needs.

The volume of each of mineral resource within a tax year in order to pay the severance tax shall be determined by a subsurface user on the content of mineral resources in the taxable volume of repaid reserves of the mineral raw materials specified in a local project developed on the basis of the timetable of extraction of a technical field development project which is approved in the established order by an authorized for these purposes state body of the Republic of Kazakhstan.

However, a subsurface user shall be obliged to make adjustment to the physical volume of mineral resources taking into account specification of the actually taxable volume of repaid reserves of the mineral resources on the data of annual reporting balance sheets of the reserves of the mineral resources and to submit the additional declaration for the severance tax to a tax body at the location no later than the 31st of the year following the reporting one.

The amount of the severance tax taking into account the made adjustment shall be the tax obligation for this tax of the current tax period.

The final calculation for the severance tax shall be made before April 15 of the year following the reporting one;

1) the mineral resources specified in sub-paragraph 2) of paragraph 2 of this Article  
:

mineral resources containing in the taxable volume of repaid reserves of the mineral raw materials specified in paragraph 4 of this Article - in the order established by sub-paragraph 1) of paragraph 3 of this Article;



others of mineral resources containing in the taxable volumes of repaid reserves of mineral raw materials - according to the weighted average cost of their realization and in case of transfer to other legal entities and (or) a structural unit within one legal entity for further processing and (or) use for own production needs - according to the actual production cost of extraction and primary processing (enrichment) falling on theses of mineral resources which is determined in accordance with international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting increased by 20 percent;

2) the mineral resources specified in sub-paragraph 3) of paragraph 2 of this Article - according to the weighted average selling price for mineral raw materials which passed the primary processing (enrichment).

4. The provisions of sub-paragraph 1) of paragraph 2 of this Article shall apply to theses of mineral resources, on which there are the official quotations of prices fixed in the London Stock Exchange of Metals or the London Stock Exchange of Precious Metals in the reporting tax period.

5. If there is no realization of mineral raw materials which passed the primary processing (enrichment), except for the mineral raw materials specified in sub-paragraph 1) of paragraph 2 of this Article, and the mineral resources specified in sub-paragraph 2) of paragraph 2 of this Article, except for the mineral resources specified in paragraph 4 of this Article, their cost shall be determined on the basis of the weighted average selling price of the last tax period, in which this realization occurred.

6. In the complete absence of realization of mineral raw materials passed the primary processing (enrichment) and (or) mineral resources from the beginning of the contract, the cost shall be determined:

1) mineral resources containing in the taxable volume of the repaid mineral raw materials specified in paragraph 4 of this Article - in the order established by sub-paragraph 1) of paragraph 3 of this Article;

2) others of mineral resources containing in the taxable volume of repaid reserves of the mineral raw materials specified in sub-paragraph 2) of paragraph 2 of this Article - according to the actual production cost of extraction and the primary processing (enrichment) falling on theses of mineral resources which is determined in accordance with international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting increased by 20 percent;

3) the mineral raw materials specified in sub-paragraph 3) of paragraph 2 of this Article - according to the actual production cost of extraction and the primary processing (enrichment) falling on theses of mineral resources which is determined in

accordance with international standards of financial reporting and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting increased by 20 percent.

In case of further realization of mineral raw materials which passed the primary processing (enrichment) and mineral resources containing in the taxable volume of repaid reserves of the mineral raw materials specified in sub-paragraph 2) of paragraph 2 of this Article, except for the mineral resources specified in paragraph 4 of this Article, a subsurface user shall be obliged to make adjustment to the actual weighted average selling price within the tax period, in which the primary realization occurred.

The adjustment of calculated amounts of the severance tax shall be performed by a subsurface user for the twelve-month period preceding the tax period, in which the primary realization occurred. At that, the amount of the adjustment shall be the tax obligation of the current tax period.

7. For purposes of this Article, the average weighted selling price for a tax period shall be determined in the order established by paragraph 2 of Article 341 of this Code.

**Footnote. Article 338 is in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).**

#### **Article 339. The rates of the tax on production of mineral resources**

The rates of the tax on production of mineral resources on mineral raw materials which underwent the primary processing (enrichment), except for coal, shall be established as follows:

No.		Description of Mineral resources	Rates, %
1	2	3	4
1.	Ores of ferrous, non-ferrous and radioactive metals	Chromium ore (concentrated)	16,2
		Manganese ore, iron-manganese ore (concentrated)	2,5
		Iron ore (concentrated, pellets)	2,8
		Uranium (productive solution, mining method)	18,5
2.	Metals	copper	5,7
		zinc	7,0
		lead	8,0
		gold, silver, platinum, palladium	5,0
		aluminium	0,25
		tin, nickel	6,0

3.	Mineral raw materials containing metals	vanadium	4,0
		Chromium, titanium, magnesia, cobalt, tungsten, bismuth, stibium, mercury, arsenic etc.	6,0
4.	Mineral raw materials containing rare metals	Niobium, lanthanum, cerium, zirconium	7,7
		Gallium	1,0
5.	Mineral raw materials containing diffused metals	Selenium, tellurium, molybdenum	7,0
		Scandium, germanium, rubidium, caesium, cadmium, indium, thallium , hafnium, rhenium, osmium	6,0
6.	Mineral raw materials containing radioactive metals	Radium, thorium	5,0
7.	Mineral raw materials containing non-metals	Coal, brown coal, shale oils	0
		phosphorites	4,0
		boric anhydride	3,5
		barite	4,5
		talk	2,0
		fluorites	3,0
		volastonite	3,5
		schungite	2,0
		graphite etc.	3,5
Raw gemstones			
8.	Mineral raw materials containing precious stones	Diamonds, rubies, sapphire , emeralds, garnet, alexandrite, red (noble) spinel, euclase, topaz, aquamarine etc.	12,0
9.	Mineral raw materials containing jobbing stones	Jade, lapis lazuli, radonite, charoit, malachite, aventurin, agate, jasper, pink quartz, diopfaz, chalcedony etc.	3,5
10.	Mineral raw materials containing technical stones	Diamonds, corundum, agate, jasper, serpentinite, zirconium, asbestos, mica etc.	2,0

The rates of the tax on production of mineral resources on alls of mineral resources and mineral raw materials which are produced from off-balance sheet reserves of a field shall be paid at a rate of zero percent.

The rates of the tax on production of mineral resources on rare and rare-earth metals (lithium, beryllium, tantalum, yttrium, strontium, praseodymium, neodymium, promethium, samarium, europium, gadolinium, terbium, dysprosium, holmium, erbium, thulium, ytterbium, lutetium) shall be established by the Republic of Kazakhstan Government.

**Footnote. Article 339 as amended by the Law of the Republic of Kazakhstan dated 26.11.2010 No. 356-IV (shall be enforced from 01.01.2011).**

### **§ 3. Tax on production of mineral resources on widespread mineral resources, underground water and therapeutic mud**

#### **Article 340. Taxation object**

Physical volumes of widespread mineral resources, underground water and therapeutic mud produced by the subsurface user during the tax period, shall be recognized as taxation object.

The tax on production of mineral resources shall not be paid in the following cases:

1) in the case of pumping underground water into subsurface for supporting the deposit pressure and pumping out the technogenic water;

2) by an individual who carries out production of underground water on a land plot which is owned by such person in accordance with the ownership right, land use rights and other land rights, on the condition that water which is produced is not used for the performance of activity activities;

3) in the case of underground water which is produced by state institutions for their own activity needs.

#### **Article 341. Tax base**

1. The tax base for calculation of the tax on production of mineral resources shall be the cost of the volume of extracted widespread mineral resources, underground water and therapeutic mud by a subsurface user for a tax period.

2. For purposes of calculation of the tax on production of mineral resources, the cost of the extracted by a subsurface user for a tax period widespread mineral resources, underground water and therapeutic mud shall be determined according to the weighted average price for their realization which is determined for a tax period.

The weighted average price for realization shall be determined by the following formula:

$$P_{av.} = (V_1 \text{ e.b.} \times P_1 \text{ r.} + V_2 \text{ e.b.} \times P_2 \text{ r.} + \dots + V_n \text{ e.b.} \times P_n \text{ r.}) / V \text{ total of realization,}$$
where:

$V_1 \text{ e.b.}, V_2 \text{ e.b.}, \dots, V_n \text{ e.b.}$  - the volume of each batch of the common mineral resources, underground water and therapeutic mud which are realized for a tax period,

$P_1 r., P_2 r.... + P_n r.$  - the actual prices for realization of the common mineral resources, underground water and therapeutic mud for each batch in a tax body,

$n$  - the number of batches of the realized common mineral resources, underground water and therapeutic mud for each batch in a tax period,

$V$  total of realization - the total volume of realization of the common mineral resources, underground water and therapeutic mud for a tax period.

The weighted average price for realization shall be applied by a subsurface user to all volume of the extracted within a tax period common mineral materials, underground water and therapeutic mud, including those to the volume transferred for the production cost of extraction to a structural unit within one legal entity for further processing and 9or) use for own production needs of the subsurface user, including use as feedstock for production of commodity products.

3. If there is no realization of the widespread mineral resources, underground water and therapeutic mud in the reporting tax period, their cost shall be determined according to the weighted average price of realization of the last tax period, in which the realization occurred.

4. In the complete absence of realization of the widespread mineral resources, underground water and therapeutic mud from the beginning of a contact on subsurface use, their cost shall be determined according to the actual production cost of extraction and the primary processing (enrichment) which is determined in accordance with international standards of financial reporting and requirement of the legislation of the Republic of Kazakhstan on accounting and financial reporting increased by 20 percent.

In case of further realization of the widespread mineral resources, underground water and therapeutic mud, a subsurface user shall be obliged to make adjustment to the amounts of the calculated severance tax taking into account the actual weighted average price within the tax period, in which the primary realization occurred.

The adjustment of the calculated amounts of the tax on production of mineral resources shall be made by a subsurface user for the twelve-month period preceding the tax period, in which the primary realization occurred. At that, the amount of the adjustment shall be the tax obligation of the current tax period.

#### **Article 342. The rates of the tax on production of mineral resources**

The rates of the tax on production of mineral resources on widespread mineral resources, underground water and therapeutic mud shall be as follows:

No.	Description of Mineral Resources	Rates, %
1	2	3
1.	Non-ore raw materials for metallurgy, moulding sand, alumina-containing rocks (feldspar, pegmatite), limestone, dolomite,	2,5

	limestone-dolomite rocks, limestone for the food industry	
2.	Other non-ore raw materials, refractory clay, kaolin, vermiculite, table salt	4,7
3.	Local building materials, porous volcanic rocks (tufa, slags, pumice stone), volcanic water-containing glasses and glass-like rocks (perlith, obsidian), shingle, gravel, gravel-sand mixture, gypsum, gypsum stone, anhydride, plasterboard, clay and clayish rocks (refractory and low-melting clays, loam, mudstone, siltstone, sales), chalk, marl, marl-chalk rocks, siliceous rocks (tripoli powder, opoks, diatomite), quartz-feldspar rocks, rubble stone, sedimentary, magmatic and metamorphic rocks (granite, basalt, diabase, marble), sand (building sand, quartz sand, quartz-feldspar sand), except for moulding sand, sandstone, natural pigments, shell rock	5,6
4.	Underground water, therapeutic mud	10,6

The coefficient 0,3 shall be applied by subjects of natural monopolies in the sphere of the water system to the rate of the tax on production of mineral resources established in paragraph 4 of the table of the first part of this Article.

**Footnote. Article 342 as amended by the Law of the Republic of Kazakhstan dated 04.07.2009 No. 167-IV (shall be enforced from 01.01.2009).**

#### **§ 4. Tax period, tax declaration and deadlines for payment**

##### **Article 343. Tax period**

The calendar quarter shall be recognized as tax period for the tax on production of mineral resources.

##### **Article 344. Deadlines for payment**

The taxpayers shall be obliged to pay to the budget at the place of their location the assessed amounts of tax not later than the 25th day of the second month following a reporting tax period.

**Footnote. Article 344 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).**

## **Article 345. Tax declaration**

Tax declaration of the tax on production of mineral resources shall be presented by the subsurface user to the tax authority at the place of the location not later than the 15th day of the second month following a reporting period.

## **Article 346. The procedure for the payment of the tax on production of mineral resources, rental tax on exported crude oil, natural gas liquids, royalties and share of Republic of Kazakhstan under production sharing**

1. In the cases established in paragraph 2 of Article 302 and paragraph 3 of Article 330 of this Code, as well as in the tax provisions of contracts as specified in paragraph 1 of Article 308-1 of this Code, the taxpayer shall be obliged to carry out transfers to the Republic of Kazakhstan of mineral resources in kind towards payment of the tax on production of mineral resources, rental tax on exported crude oil, natural gas liquids, royalties and the share of the Republic of Kazakhstan under production sharing.

2. Replacement of the monetary form of payment of the tax on production of mineral resources and of the rental tax on exported crude oil and natural gas liquids as established by this Code as well as of royalties and the share of the Republic of Kazakhstan under production sharing as established in subsurface use contracts specified in paragraph 1 of Article 308-1 of this Code, may be carried out on a temporary basis, in full or in part.

3. Amounts of the tax on production of mineral resources and of the rental tax on exported crude oil, natural gas liquids as established by this Code as well as royalties and the share of the Republic of Kazakhstan under production sharing as established by subsurface use contracts specified in paragraph 1 of Article 308-1 of this Code which are paid in kind, must be equal to the total amount of those taxes and payments measured in a monetary form, in accordance with the procedure and in amounts which are established by this Code and also by subsurface use contracts specified in paragraph 1 of Article 308-1 of this Code.

The volume of mineral resources transferred by a taxpayer to the Republic of Kazakhstan shall be determined according to the procedure specified by the Government of the Republic of Kazakhstan.

4. When concluding additional agreements providing for payment by a taxpayer of the tax on production of mineral resources and rental tax on exported crude oil, natural gas liquids in kind as established by this Code as well as royalties and the share of the Republic of Kazakhstan under production sharing as established by subsurface use contracts specified in paragraph 1 of Article 308-1 of this Code, it shall contain the following in accordance with the obligatory procedure:

1) the recipient on behalf of the state of the volumes of mineral resources which are transferred by the taxpayer to the Republic of Kazakhstan in the form of the tax on production of mineral resources, rental tax on exported crude oil, natural gas liquids, royalties and the share of the Republic of Kazakhstan under production sharing;

2) point and terms of delivery of volumes of mineral resources in the form of the tax on production of mineral resources, rental tax on exported crude oil, natural gas liquids, royalties and the share of the Republic of Kazakhstan under production sharing which are transferred by the taxpayer to the Republic of Kazakhstan in kind.

5. Deadlines for the transfer by the taxpayer of mineral resources which are transferred in kind towards the payment of tax on production of mineral resources and rental tax on exported crude oil, natural gas liquids as established by this Code as well as royalties and the share of the Republic of Kazakhstan under production sharing as established by subsurface use contracts as specified in paragraph 1 of Article 308-1 of this Code, must be consistent with the time of the payment of those taxes and payments in cash as established by this Code and the subsurface use contracts specified in paragraph 1 of Article 308-1 of this Code, in a monetary form.

In that respect, the taxpayer shall transfer mineral resources to the recipient on behalf of the state not later than the date for the payment of those taxes and payments, except for the cases where the recipient on behalf of the state establishes a later date for such transfer.

6. The recipient on behalf of the state shall transfer to the state budget the due amount of the tax on production of mineral resources, rental tax on exported crude oil, natural gas liquids, royalties and the share of the Republic of Kazakhstan under production sharing in money within periods of payment of those payments as established by this Code and by subsurface use contracts as specified in paragraph 1 of Article 308-1 of this Code.

7. The recipient on behalf of the state shall independently exercise the supervision of the timeliness and fullness of transfer to the recipient by the taxpayers of adequate volumes of mineral resources.

The responsibility for the fullness and timeliness of transfer to the budget of the tax on production of mineral resources and rental tax on exported crude oil, natural gas liquids, as established by this Code and also of royalties and the share of the Republic of Kazakhstan under production sharing as established by subsurface use contracts specified in paragraph 1 of Article 308-1 of this Code, to be transferred by the taxpayer to the Republic of Kazakhstan in kind, from the date of the actual shipment by the subsurface user of adequate volumes of mineral resources, shall rest with the recipient on behalf of the state.

8. The taxpayer and the recipient on behalf of the state shall present to the tax authorities at the place of their location, reports on volumes and periods of payment (



transfer) of the tax on production of mineral resources and rental tax on exported crude oil, natural gas liquids as established by this Code, as well as royalties and the share of the Republic of Kazakhstan under production sharing as established by subsurface use contracts as specified in paragraph 1 of Article 308-1 of this Code in kind within periods and in accordance with the forms which are established by the authorized state body.

Footnote. Article 346 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2009).

## **Chapter 46. THE EXCESS PROFIT TAX**

Footnote. Chapter 46 is in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).

### **Article 347. General provisions**

1. Excess profit tax shall be calculated for tax period for each separate subsurface use contract under which subsurface user is a payer of excess profit tax in accordance with Article 347-1 of this Code.

2. For the purposes of assessment of excess profits tax subsurface user shall determine taxation object, as well as the next objects related with taxation for each separate subsurface use contract in accordance with the procedure established in this Chapter:

- 1) Net income for the purposes of assessment of excess profits tax;
- 2) Taxable income for the purposes of assessment of excess profits tax;
- 3) Aggregate annual income on subsurface use contract;
- 4) Deductions for the purposes of assessment of excess profits tax;
- 5) Corporate income tax on subsurface use contract;
- 6) Assessed amount of net income tax of permanent establishment of a nonresident on subsurface use contract.

### **Article 347-1. Payers**

1. The subsurface users carrying out activity under each separate subsurface use contract, except for subsurface use contracts indicated in paragraph 2 of this Article, shall be recognized as the payers of excess profits tax.

2. Subsurface users carrying out activity on the basis of the following subsurface use contracts shall not be recognized as excess profits tax payers:

- 1) Indicated in paragraph 1 of Article 308-1 of this Code;

2) For exploration, exploration and production or production of widespread mineral resources, underground water and (or) therapeutic mud, provided that those contracts do not provide for the production of others of mineral resources;

3) For the construction and operation of underground facilities not connected to exploration and production.

**Footnote. Article 347-1 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2009).**

#### **Article 348. Taxation objects**

Portion of net income of a subsurface user determined for the purposes of assessment of excess profits tax in accordance with Article 348-1 of this Code for each separate contract for subsurface use for tax period, exceeding the amount equal to 25% of the amount of subsurface user's deductions for the purposes of excess profits tax assessment determined in accordance with Article 348-4 of this Code shall be recognized as taxation object for the excess profits tax.

#### **Article 348-1. Net income for the purposes of assessment of excess profits tax**

1. Net income for the purposes of calculation of excess profits tax shall be determined as the difference between taxable income for the purposes of assessment of excess profits tax, determined in accordance with Article 348-2 of this Code, and corporate income tax on subsurface use contract, assessed in accordance with Article 348-5 of this Code.

2. For nonresidents carrying out subsurface use activity in the Republic of Kazakhstan through a permanent establishment, net income for the purposes of assessment of excess profits tax shall additionally decrease by assessment amount of tax on net profit of permanent establishment related with this subsurface use contract assessed in accordance with Article 349 of this Chapter.

#### **Article 348-2. Taxable income for the purposes of excess profits tax assessment**

Taxable income for the purposes of this Chapter shall be determined as the difference between aggregate annual income under subsurface use contract, determined in accordance with Article 348-3 of this Code, and deductions for the purposes of assessment of excess profits tax, determined in accordance with Article 348-4 of this Code with account of decrease to amounts of income and expenses, provided for by Article 133 of this Code.

#### **Article 348-3. Aggregate annual income on subsurface use contract**

Aggregate annual income on subsurface use contract shall be determined by subsurface user on contractual activity on each separate subsurface use contract in the order established by this Code for the purposes of assessment of corporate income tax, with account of adjustments provided for by Article 99 of this Code.

**Article 348-4. Deductions for the purposes of assessment of excess profits tax**

1. For the purposes of assessments of excess profits tax, deductions under each separate subsurface use contract shall be determined as total of the following:

1) costs which are recognized in the reporting tax period as deductions for the purposes of assessment of corporate income tax with regard to contract activity in accordance with Articles 100-114, 116-122 of this Code;

2) following costs and losses within the limits of:  
costs actually incurred during the tax period for purchase and (or) creation of fixed assets;

in relation to the functioning fixed assets put into operation from January 1, 2009, within the amounts of remaining depreciation not deducted for assessment of excess profits tax in previous tax periods;

amounts of subsequent costs for fixed assets incurred during tax period which in accounting were recognized as an increase of the balance-sheet value of the fixed assets;

costs of subsurface users which further are subject to be deducted by way of assessment of depreciation in accordance with Articles 111 and 112 of this Code;

3) losses incurred by a subsurface user for the previous tax periods in accordance with Articles 136 and 137 of this Code.

2. Recognition of costs and losses specified in sub-paragraph 2) of paragraph 1 of this Article as deductions for the purpose of assessment of the excess profits tax, shall be carried out at the discretion of the subsurface user fully or partially in current or any other tax period.

These costs deducted for the purposes of assessment of excess profits tax in the reporting tax period, shall not be subject to deduction for the purposes of computing excess profits tax in other tax periods.

3. When exercising the right established by paragraph 2 of this Article, when computing the excess profits tax in a relevant tax period, the subsurface user shall be obliged to exclude the amount of depreciation assessments recognized as deductions when computing the corporate income tax of such tax period in relation to costs that previously were recognized deductions for the purpose of the assessment of the excess profits tax in accordance with sub-paragraph 2) of paragraph 1 of this Article, from the total deductions determined in accordance with sub-paragraph 1 of paragraph 1 of this Article.

4. When one and the same expenses are provided for by several of expenses, established by paragraph 1 of this Article, then indicated expenses shall be deducted only one time when calculating excess profits tax.

#### **Article 348-5. Corporate income tax on subsurface use contract**

Corporate income tax on subsurface use contract shall be determined for tax period in respect of contractual activity for each separate subsurface use contract as the product of multiplying the rate established by paragraph 1 of Article 147 of this Code and taxable income computed under this subsurface use contract in the order established by Article 139 of this Code decreased to the amounts of income and expenses provided for by Article 133 of this Code, as well as the amount of losses under subsurface use contract carried forward in accordance with Articles 136 and 137 of this Code.

#### **Article 349. Assessed amount of tax on net income of permanent establishment under subsurface use contract**

Assessed amount of tax on net income of permanent establishment under subsurface use contract for the purposes of this Chapter shall be determined for tax period as product of multiplying rate of net income tax of permanent establishment of nonresident, established by paragraph 5 of Article 147 of this Code, and taxable base for net income tax of permanent establishment of nonresident, computed under subsurface use contract in the order established by Article 199 of this Code.

#### **Article 350. The assessment procedure**

1. The assessment of the excess profits tax for a tax period shall be carried out by means of applying each relevant rate on each level established by Article 351 of this Code to each part of the tax base of excess profit tax relevant to such level with subsequent summing up of computed amount of excess profits tax on all levels.

2. In order to apply the provisions of paragraph 1 of this Article, the subsurface user shall:

1) determine taxable base, as well as objects related with taxation by excess profits tax under subsurface use contract;

2) determine limit amounts of distribution of net income for the purposes of assessment of excess profits tax on each level established by 351 of this Chapter, in the following order:

for levels 1-6 - as the product of percentage for each level, established in line 3 of the table, in Article 351 of this Chapter, and the amount of deductions for the purposes of excess profits tax assessment;

for level 7:

when the amount of net income for the purposes of assessment of excess profits tax assessment exceeds the amount equal to 70 % of the amount of deductions for the purposes of excess profits tax assessment - as the difference between net income for the purposes of excess profits tax assessment and the amount equal to 70% of the amount of deductions for the purposes of excess profits tax assessment;

when the amount of net income for the purposes of assessment of excess profits tax assessment is less than or equal to the amount equal to 70% of the amount of deductions for the purposes of excess profits tax assessment - as zero;

3) distribute the net income actually received in the tax period for the purposes of excess profits tax assessment by the levels as specified in Article 351 of this Code in the following order:

for level 1:

if the amount of net income for the purposes of excess profits tax assessment for tax period exceeds the maximum amount of distribution of net income for the first level, then the distributed part of net income for the first level is equal to the maximum amount of distribution of net income for the first level;

if the amount of net income for the purposes of excess profits tax assessment for tax period is less than the maximum amount of distribution of net income for the first level, then the distributed part of net income for the first level is equal to the amount of net income for the purposes of excess profits tax assessment for a tax period;

And, net income for the purposes of excess profits tax assessment for the next levels shall not be distributed;

for levels 2-7:

when the difference between the net income for the purposes of excess profits tax assessment for tax period and total amount of distributed parts of net income on previous levels exceeds or equal to maximum amount of distribution of net income for the relevant level, then distributed part of net income for this level is equal to maximum amount of distribution of net income for this corresponding level;

when the difference between the net income for the purposes of excess profits tax assessment for tax period and total amount of distributed parts of net income on previous levels is less than the maximum amount of distribution of net income for the relevant level, then distributed part of net income for this level is equal to this difference. And, net income for the purposes of excess profits tax assessment for the next levels shall not be distributed.

Total amount of parts of net income distributed by levels shall be equal to total amount of net income for the purposes of excess profits tax for tax period;

4) apply corresponding rate of excess profits tax to each part of net income distributed by levels in accordance with Article 351 of this Chapter;

5) determine the amount of excess profits tax for tax period by summing up computed amounts of excess profits tax of each level provided for by Article 351 of this Code.

**Article 351. Excess profits tax rates, levels and percent rates for calculation of maximum amount of net income distribution for the purposes of excess tax assessment**

Excess profits tax shall be paid by subsurface user in accordance with sliding rates scale determined in the following order:

Level N	Scale of distribution of net income for the purposes of excess profits tax income distribution assessment, percent of amount of deduction	Percent for calculation of maximum amount of net for the purposes of excess profits tax assessment	Rate (%)
1	2	3	4
1	Less than or equal to 25 %	25	Not established
2	from 25 % to 30 % inclusive	5	10
3	from 30 % up to 40 % inclusive	10	20
4	from 40 % up to 50 % inclusive	10	30
5	from 50 % up to 60 % inclusive	10	40
6	from 60 % up to 70 % inclusive	10	50
7	More than 70 %	In accordance with sub-par 2) of par 2 of Article 350 of this Code	60

**Article 352. Tax period**

1. Calendar year from 1 January up to 31 December shall be recognized as tax period for excess profits tax.

2. If subsurface use contract was concluded during a calendar year, the first tax period for assessment of excess profits tax on such contract is the period of time from the date of commencement of subsurface use contract and up to the end of the calendar year.

3. If subsurface use contract expires before the end of a calendar year, the last tax period for assessment of excess profits tax for this contract is the period of time from the beginning of calendar year till the expiration date of subsurface use contract.

4. If subsurface use contract's validity which entered into force after the beginning of calendar year, expires before the end of this calendar year, the tax period for assessment of excess profits tax for such a contract is a period of time from the date of commencement of subsurface use contract till the date of expiration of this subsurface use contract.

#### **Article 353. Deadlines for payment**

The tax on excess profits shall be paid to budget at a place of taxpayer's location not later than the 15th day of April of the year following a tax period.

#### **Article 354. Tax declarations**

Declarations of the excess profits tax shall be filed by subsurface users to the tax authority in the place of location not later than the 10th of April of the year following a tax period.

### **SECTION 12. SOCIAL TAX**

#### **Chapter 47. GENERAL PROVISIONS**

#### **Article 355. The payers**

The payers of social tax shall be:

- 1) Individual entrepreneurs;
- 2) Private notaries, private enforcement officers, advocates;
- 3) Resident legal entities of the Republic of Kazakhstan, unless it is established otherwise by paragraph 2 of this Article;
- 4) Nonresident legal entities carrying out activity in the Republic of Kazakhstan through a permanent establishment.

2. A resident legal entity shall have the right by its decision to recognize its structural unit as a payer of social tax with respect to the employer's expenses paid (to be paid) in form of income to employees of such structural units.

In this case the decision of the resident legal entity or revocation of such decision shall become effective from the beginning of the quarter following the quarter in which such decision was made.

If a newly established structural unit shall be recognized as a payer of social tax, the decision of such resident legal entity concerning such recognition shall become effective from the date of establishment of that structural unit or from the beginning of the quarter following the quarter in which such structural unit was established.

The structural units which have been recognized as independent social tax payers by the decision of the resident legal entity, for the purpose of Chapter 19 of this Code shall be recognized as tax agents with respect to the individual income tax.

3. At the decision of the state body, its structural units and (or) territorial bodies may be considered as payers of social tax, payable for their subordinated state institutions.

At the decision of the local executive body, its structural units and (or) territorial (subordinated) bodies may be considered as payers of social tax for their subordinated state institutions.

State institutions, recognized as payers of social tax in the procedure, established by this Article, for the purposes of Chapter 19 of this Code shall be recognized as tax agents for individual income tax.

**Footnote.** Article 355 is in the wording of the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); as amended by the Laws of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

#### **Article 356. Specifics of the assessment, payment and submission of tax report on social tax by taxpayers enjoying special tax regimes**

The assessment, payment and submission of tax reports on social tax shall be performed by payers which apply special tax regimes:

1) for legal entities that are producers of agricultural products, aquacultural (fishery) products and rural consumer cooperatives - in compliance with specifics established by Article 451 of this Code;

2) for entities of small business on the basis of a simplified declaration - in accordance with Articles 433-438 of this Code;

3) for entities of small business on the basis of a patent - in accordance with Articles 429-432 of this Code;

4) for peasant or farmer holdings - in accordance with Articles 445-447 of this Code.

**Footnote.** Article 356 as amended by the Law of the Republic of Kazakhstan dated 21.01.2010 No. 242-IV (shall be enforced from 01.01.2011).

#### **Article 357. Taxation objects**

1. For the payers specified in sub-paragraphs 1) and 2) of paragraph 1 of Article 355 of this Code, the objects that are subject to social tax shall be the number of employees including the payers themselves.

2. For the payers specified in sub-paragraphs 3) and 4) of paragraph 1 of Article 355 of this Code, the taxation objects shall be the expenses of the employer paid to the resident employees in form of the income defined by paragraph 2 of Article 163 of this Code, to nonresident employees in form of income defined by sub-paragraphs 18), 19),



20), and 21) of paragraph 1 of Article 192 of this Code, and also the income of foreign employees specified in paragraph 7 of Article 191 of this Code, unless otherwise is provided for by this paragraph.

The income specified in sub-paragraphs 8), 10), 12), 17), 18), 24), 26), 27), 29) to 32), 34), 41) of paragraph 1 of Article 156 and sub-paragraph 13) of paragraph 1 of Article 200-1 of this Code shall not be subject to taxation, as well as:

- 1) Payments made at the expense of the funds of grants;
- 2) State awards, scholarships established by the President of the Republic of Kazakhstan, Government of the Republic of Kazakhstan;
- 3) Money prizes awarded for prize-winning places at sport competitions, shows, contests;
- 4) Compensatory payments made in the event of termination of employment agreements in case of discontinuation of activity of the employer being an individual or liquidation of the employer being a legal entity, reduction in the number of employees or staff size, to the amounts established by the legislation of the Republic of Kazakhstan;
- 5) Compensatory payments made by employers to employees for unused payable annual leaves;
- 6) Obligatory pension contributions of employees to the Pension Savings Funds in accordance with the legislation of the Republic of Kazakhstan.

3. If the object of taxation specified in accordance with paragraph 2 of this Article for the calendar month is less than the minimum salary rate established by the Law on Republican Budget and effective as of the first day of such calendar month, the object that is subject to social tax shall be determined on the basis of such minimum salary rate.

4. The provisions of sub-paragraph 1) of the second part of paragraph 2 of this Article shall apply if the payments are made in accordance with the agreement (contract) concluded with the grant recipient or executor appointed by the grant recipient for achievement of the grant goals (objectives).

**Footnote. Article 357 is in the wording of the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 358. Tax rates**

1. Unless it is established otherwise by this Article, social tax shall be assessed at a rate of 11 per cent.

2. Individual entrepreneurs, except for those who apply special tax regimes, private notaries, private enforcement agents, advocates shall pay social tax in a 2-time amount

of the monthly calculation index established by the Law on Republican Budget and effective as of the day of payment for themselves and in a one-time amount of the monthly calculation index for each employee.

The provision of this paragraph shall not apply to taxpayers during the period of temporary suspension by them of the submission of tax reports in accordance with Article 73 of this Code.

3. Specialized organizations at which disabled work who have disorders of the locomotor apparatus, who have lost hearing, speech, sense of sight, which are consistent with conditions of paragraph 3 of Article 135 of this Code, shall pay social tax at a rate of 4,5 per cent.

4. Rates of social tax for individual entrepreneurs applying the special tax regime for peasant or farmer holdings are established by Article 445 of this Code.

5. Rates of social tax for payers applying the special tax regimes on the basis of a patent or simplified declaration are established by Chapter 61 of this Code.

**Footnote. Article 358 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).**

## **Chapter 48. THE PROCEDURE FOR THE ASSESSMENT AND PAYMENT OF TAX**

### **Article 359. The procedure for the assessment of social tax**

1. The payers specified in sub-paragraphs 3), 4) of paragraph 1 of Article 355 of this Code shall perform the assessment of social tax by applying the rates established in paragraphs 1 and 3 of Article 358 of this Code to taxation objects determined in accordance with Article 357 of this Code for the tax period.

2. Individual entrepreneurs, except for those who apply special tax regimes, private notaries, private enforcement agents, advocates shall perform the assessment of social tax by applying the rates established by paragraph 2 of Article 358 of this Code to taxation objects for social tax determined by paragraph 1 of Article 357 of this Code.

3. The amount of social tax shall be reduced by the amount of social assessments calculated in accordance with the Law of the Republic of Kazakhstan on Obligatory Social Insurance.

In the event that total social assessments to the State Fund for Social Insurance exceed total social tax, total social tax shall be deemed to be equal to zero.

4. The organizations operating in the territory of "Park of Innovative Technologies" special economic zone shall assess the social tax subject to the provisions set forth in sub-paragraph 3) of paragraph 3 of Article 151-4 of this Code.

**Footnote. Article 359 as amended by the Laws of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 02.04.2010 No.**

262-IV (shall be enforced from 21.10.2010); dated 21.07.2011 No. 470-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012), dated 17.02.2012 No. 564-IV (shall be enforced from 01.01.2012).

#### **Article 360. Payment of social tax**

1. Payment of social tax shall be made not later than on the 25th day of the month following the tax period in the place of location of the taxpayer, unless it is established otherwise by this Code.

2. Payers of social tax which have structural units shall perform payment of social tax in accordance with the procedure established by Article 362 of this Code.

**Footnote. Article 360 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009).**

#### **Article 361. Specifics of the assessment of social tax by state institutions**

1. Amounts of social tax assessed by state institutions for a tax period shall be reduced by amounts of social benefits for temporary disability paid in accordance with the legislation of the Republic of Kazakhstan.

2. Where amounts of paid social benefits specified in paragraph 1 of this Article for the tax period exceed the amount of assessed social tax the excess amount shall be carried forward for the next tax period.

3. Amounts of social tax subject to payment by state institutions specified in Article 355 of this Code shall be assessed by a payer in accordance with the procedure and within the deadlines established by Articles 359 and 360 of this Code.

4. Declarations for personal income tax and social tax shall be submitted by a payer in accordance with the procedure and within the deadlines established by paragraph 1 of Article 364 of this Code.

**Footnote. Article 361 is in the wording of the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 362. The procedure for the assessment and payment of tax for structural units**

1. Amounts of social tax payable for structural units shall be calculated based on social tax assessed on income of employees of this structural unit.

2. Payers shall perform payment of social tax for structural units to appropriate budgets in the place of location of structural units.

### **Chapter 49. THE TAX PERIOD AND THE TAX DECLARATION**

### **Article 363. Tax period**

The tax period for the assessment of social tax shall be a calendar month.

### **Article 364. Declarations of personal income tax and social tax**

1. Personal income tax and social tax declarations shall be submitted by payers to tax authorities in the place of location quarterly not later than on the 15th day of the second month following the reporting quarter.

Attachments to personal income tax and social tax declarations shall be compiled according to results of the year and be submitted with declarations for the fourth quarter of the reporting year.

2. Payers having structural units shall submit an attachment to the declaration for personal income tax and social tax for a structural unit with assessment of the amount of personal income tax and social tax for a structural unit to the tax authority in the place of location of the structural unit.

**Footnote. Article 364 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009).**

## **SECTION 13. TAX ON TRANSPORT VEHICLES**

### **Chapter 50. GENERAL PROVISIONS**

#### **Article 365. Taxpayers**

1. Payers of the tax on transport vehicles shall be individuals who have taxation objects on the right of ownership, and legal entity having taxation objects on the basis of the right of ownership, right of economic management or operative control, unless otherwise specified in this Article.

A legal entity by its decision shall have the right to recognize its structural unit as an independent taxpayer of the tax on vehicles in relation to the vehicles registered under such structural unit in accordance with the legislation of the Republic of Kazakhstan on vehicles.

In such case the decision of legal entity or revocation of such decision shall be enforced on January 1 of the year following the year of the decision making.

If a structural unit is recognized as an independent taxpayer of the tax on vehicles, the decision of legal entity on such recognition shall be put into effect as of the date of establishment of the structural unit, or from January 1 of the year following the year when the structural unit was established.

2. Lessees shall be payers of tax on transport vehicles in respect of taxation objects transferred (received) under financial lease agreements.

3. Unless otherwise established by this Article the followings shall not be recognized as payers of the tax on transport vehicles:

1) payers of single land tax in respect of the following transport vehicles which are held by their members on the right of joint ownership, on the right of ownership and which are directly used in the process of production, storage and processing of own agricultural produce:

one car with the engine volume inclusive up to 2500 cm<sup>3</sup>;

lorries with the summarized capacity of engines in an amount of 1000 kWt per 1000 ha. of arable lands (hay-fields, pastures) complying with the ratio 1:1.

However, in cases when the number of vehicles will be more than one unit, with fractional values of 0.5 and above according to the results of calculation, this value shall be rounded to whole units, if lower than 0,5 - not subject to rounding.

If calculating reveals that the number of lorries is less than one unit, one lorry with the smallest engine capacity shall be subject to exemption;

2) producers of agricultural produce, in particular payers of single land tax, in respect of the following specialized agricultural machinery used in production of own agricultural produce:

lorry cisterns to transport milk or water for agricultural purposes;

vehicles of veterinary service;

lorry zoological-biological laboratories;

fodder lorries;

lorry loaders;

filling vehicles for seeders;

vehicles to apply fertilizers;

vehicle loader for airplanes to load mineral fertilizers and toxic chemicals;

vehicle transporters to carry piles of bales;

vehicle spreader for baits;

vehicles for removing leafy tops of root vegetables;

aircraft AN-2 agricultural;

cutters self-propelled;

grain combines;

wheeled tractors, self-propelled chassis and mobile power means;

fodder harvesting combines;

lorry workshops for repair and technical servicing of agricultural machinery;

self-propelled mowing machines;

cockers;

harvesting combines (for harvesting of root-crops, potatoes, tomatoes, green peas, cotton, and other agricultural produce);

3) state institutions;

4) participants of the Great Patriotic War and persons equated to those, persons awarded with orders and medals of the former Union of the SSR for selfless labor and irreproachable military service in the rear during the years of the Great Patriotic War, and also persons worked (served) for not less than 6 months from June 22, 1941 to May 9, 1945 and not awarded with orders and medals of the former Union of the SSR for selfless labor and irreproachable military service in the rear during the years of the Great Patriotic War, in respect of one motor transport vehicle which is a taxation object ;

5) disabled with regard for owned side-cars and cars - in respect of one motor transport vehicle which is taxation object;

6) Heroes of the Soviet Union and Heroes of Socialist Labor, persons having the "Khalykkaharmany", "KazakhstannynEnbekEri" titles, those who are awarded with the Order of Glory of the three degrees and the order "Otan", mothers having many children awarded with the "Mother Heroine" title, awarded with the pendants "Altyn alka", "Kumys alka" - in respect of one motor transport vehicle which is recognized as a taxation object;

7) individuals - in respect of lorries with the term of operation over seven years that were received as a share as a result of the withdrawal from an agricultural formation.

4. *excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2010).*

**Footnote.** Article 365 as amended by the Law of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article2), dated 16.11.2009 No. 200-IV (shall be enforced 01.06.2009);dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 26.11.2010 No. 356-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2010).

## **Article 366. Taxation objects**

1. Taxation objects shall be transport vehicles, except for trailers, which are subject to state registration and (or) registered in the Republic of Kazakhstan.

2. The following shall not be recognized as taxation objects:

- 1) mine dump trucks with the load capacity of 40 tons and more;
- 2) specialized medical transport vehicles.

## **Chapter 51. TAX RATES, PROCEDURE FOR THE ASSESSMENT AND DEADLINES FOR THE PAYMENT OF THE TAX**

### **Article 367. Tax rates**

1. The assessment of tax shall be made at the following rates that are established in monthly calculation indices:

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No.	Taxation objects	Tax rate (monthly calculation index)
1	2	3
1.	Cars with the engine volume (cm3)	
	up to 1,100 inclusive	1
	over 1,100 to 1,500 inclusive	2
	over 1,500 to 2,000 inclusive	3
	over 2,000 to 2,500 inclusive	6
	over 2,500 to 3,000 inclusive	9
	over 3,000 to 4,000 inclusive	15
	over 4,000	117
2.	Lorries, special vehicles with the loading capacity (without regard for trailers):	
	up to 1 ton inclusive	3
	over 1 ton to 1,5 tons inclusive	5
	over 1,5 to 5 tons inclusive	7
	over 5 tons	9
3.	Tractors, self-propelled, ameliorative and road construction machinery and equipment, adverse terrain vehicles and other transport vehicles inappropriate for public roads	3
4.	Buses:	
	up to 12 passenger seats inclusive	9
	over 12 to 25 passenger seats inclusive	14
	over 25 passenger seats	20
5.	Motorcycles, scooters, motor sledges , small size vessel with engine capacity:	
	up to 55 kWt inclusive	1
	over 55 kWt	10
6.	Motor boats, vessels, tug boats, barges, yachts (engine capacity on horse power):	
	up to 160 inclusive	6
	over 160 to 500 inclusive	18
	over 500 to 1,000 inclusive	32
	over 1,000	55
7.	Aircrafts	4 percent from monthly calculation index per each kw power
	Railway traction rolling stock used for: handling trains of any category on main tracks; carrying out switching work on main, station and	

8.	approach lines with narrow and (or) wide gauge; on tracks of industrial railway transport, not entering main and station tracks	1 per cent of monthly calculation index per each kilowatt of total vehicle's power
	Motor-car rolling stock used for organization of passenger transportation on main and station tracks with narrow and wide gauge	1 per cent of monthly calculation index per each kilowatt of total vehicle's power

In this case monthly calculation index established by the Law on Republican Budget and effective as of January 1 of the corresponding financial year shall be used for assessment of the tax.

1-1. For the purpose of the Code:

1) the following shall be defined as light motor vehicles:

cars of B category;

motor vehicles on chassis of light motor vehicle with a cargo stage and operator's cabin separated from the cargo part by a rigid fixed partition (pick-up cars);

vehicles of increased seat capacity and off-road cars, exceeding requirements for B category by maximal mass allowed and (or) number of passenger seats (off road cars including SUVs, as well as crossovers and limousines);

2) cars of C category shall be defined as lorries unless otherwise established in sub-paragraph 1) of this paragraph;

3) cars with special equipment appropriated for specific technological processes or operations shall be defined as special vehicles unless otherwise established in sub-paragraphs 1) and 2) of this paragraph;

4) cars of D category shall be defined as busses unless otherwise established in sub-paragraph 1) of this paragraph.

2. With the engine capacity of light motor vehicles over 1,500 to 2,000 cubic centimeters inclusive taxable at a rate of three monthly calculation indices, over 2,000 to 2,500 cubic centimeters inclusive taxable at a rate of six monthly calculation indices, over 2,500 to 3,000 cubic centimeters inclusive taxable at a rate of nine monthly calculation indices, over 3,000 to 4,000 cubic centimeters inclusive taxable at a rate of fifteen monthly calculation indices, over 4,000 cubic centimeters taxable at a rate of fifteen monthly calculation indices, tax amount shall increase per each exceeding unit corresponding to lower limit of engine capacity by 7 tenge.

3. Depending on the term of operation the following adjustment coefficients shall apply to rates of tax on aircrafts:

1) in respect of aircrafts purchased after April 1, 1999 beyond the boundaries of the Republic of Kazakhstan:

over 5 to 15 years of operation inclusive - 2,0;

over 15 years of operation - 3,0;



2) in respect of aircrafts purchased before the 1st April 1999, and also those purchased after April 1, 1999 and (or) which were operated in the Republic of Kazakhstan before April 1, 1999:

over 5 to 15 years of operation inclusive - 0,5;

over 15 years of operation - 0,3.

4. The term of operation of transport vehicles shall be calculated based on the year of manufacture as specified in certificates of transport vehicles (aircraft operation manual).

5. For the assessment of tax on lorries and special vehicles shall be used transportation capacity index as specified in the instruction and (or) operation manual of the vehicle. If transportation capacity index is not specified in the operation instruction (manual) it shall be calculated as difference between the allowed maximal mass of the vehicle and mass of the vehicle without load (mass of the equipped vehicle ).

**Footnote. Article 367 is in the wording of the law of the Republic of Kazakhstan dated 26.11.2010 No. 356-IV (shall be enforced from 01.01.2011).**

#### **Article 368. The procedure for the assessment of tax**

1. The taxpayer shall independently assess the amount of tax for a tax period basing on taxation objects, tax rate by each transport vehicle. Taxpayers applying the special tax regime for legal entities that are producers of agricultural products, aquacultural ( fishery) products and rural consumer cooperatives shall assess tax with regard for the specifics established by Article 451 of this Code.

Where the transport vehicle is held on the right of ownership, right of economic management or right of operative control less than a tax period, the amount of tax shall be assessed for the period of actual holding of the transport vehicle on the right of ownership, right of economic management or right of operative control by dividing the annual amount by twelve and multiplying by the number of months of actual holding of the transport vehicle on the right of ownership, right of economic management or right of operative control, except for the case provided for by paragraph 3 of this Article.

2. When transferring rights of ownership, economic management or operative control of taxation objects within a tax period, the amount of tax shall be assessed according to the following procedure:

1) for the transferring party:

in respect of transport vehicles which are present at the beginning of the tax period the amount of tax shall be assessed for the time from the beginning of the tax period to the first day of the month in which the right of ownership, right of economic management or right of operative control of the transport vehicle was transferred;

in respect of transport vehicles purchased within the tax period the amount of tax shall be assessed for the period from the first day of the month in which the right of ownership, right of economic management or right of operative control of the transport vehicle was acquired to the first day of the month in which the right of ownership, right of economic management or right of business control of the transport vehicle was transferred;

2) for the purchasing party - the amount of tax shall be assessed for the period from the first day of the month in which the right of ownership, right of economic management or right of operative control of the transport vehicle was acquired to the end of the tax period or to the first day of the month in which the purchasing party transferred subsequently the right of ownership, right of economic management or right of operative control of this transport vehicle.

3. Where individuals who are not individual entrepreneurs, private notaries, private enforcement agents, advocates transfer the right of ownership of taxation objects, in the case if during the current tax period transferring party has affected the payment of annual amount of the tax, such payment of the tax, upon agreement of the parties based on conditions of the agreements of purchase and sale, exchange, shall be recognized as fulfillment of the tax liability of the purchasing party on payment of the tax for the current tax period for the transferred taxation object.

4. When purchasing a transport vehicle that is not registered in the Republic of Kazakhstan at the moment of purchase individuals shall assess the amount of tax for the period starting from the first day of the month in which the right of ownership for the transport vehicle arises till the end of the tax period or till the first day of the month in which the right of ownership ceases.

5. When deregistering a transport vehicle by the authorized state body in the sphere of registration of transport vehicles, which is registered amongst high-jacked and (or) stolen from the owner, the document confirming deregistration of a transport vehicle for this reason, shall be recognized as a reason for exemption from the payment of the tax for a period of searching for such transport vehicles. The implementation of a tax obligation shall be carried out in accordance with the procedure specified in Charter 51 of this Code, from the time of return to the owner of a transport vehicle that was searched for.

6. Legal entities shall assess current payments for transport vehicles being used at the beginning of a tax period on the basis of the right of ownership, the right of economic management or the right of operative control as well as for transport vehicles in relation to which such rights arise and (or) cease within the period starting from the beginning of a tax period till the 1st of July of the tax period:

1) in case the right of ownership, the right of economic management or the right of operative control for transport vehicles arises within the period starting from the

beginning of a tax period till the 1st of July of the tax period and does not cease till the 1st of July of the tax period - in the amount of tax assessed for the period from the first day of the month in which the right of ownership, the right of economic management or the right of operative control for transport vehicles arises till the end of the tax period;

2) in case within a period starting from the beginning of the tax period till the 1st of July of the tax period the right of ownership, the right of economic management or the right of operative control for transport vehicles:

ceases - in the amount of tax assessed for a period starting from the beginning of a tax period till the first day of the month in which the right of ownership, the right of economic management or the right of operative control for transport vehicles ceases;

arises and ceases - in the amount of tax assessed for a period starting from the first day of the month in which the right of ownership, the right of economic management or the right of operative control for transport vehicles arises till the first day of the month in which the right of ownership, the right of economic management or the right of operative control for such transport vehicles ceases;

3) in other cases - in the amount of annual tax. At that in case the right of ownership, the right of economic management or the right of operative control for transport vehicles ceases within a period starting from the 1st of July of the tax period till the end of the tax period the amount of tax assessed for the period starting from the beginning of a tax period till the first day of the month in which the right of ownership, the right of economic management or the right of operative control for transport vehicles ceases shall be indicated in the declaration. Legal entities shall not assess current payments and shall not submit assessment of current payments for transport vehicles for which the right of ownership, the right of economic management or the right of operative control arises within the period starting from the 1st of July of the tax period till the end of the tax period. At that the amount of tax assessed in accordance with the procedures specified by sub-paragraph 2) of paragraph 2 of this Article shall be indicated in a declaration.

**Footnote. Article 368 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 21.01.2010 No. 242-IV (shall be enforced from 01.01.2011); dated 02.04.2010 No. 262-IV (shall be enforced from 01.01.2011), dated 26.11.2010 No. 356-IV (shall be enforced from 01.01.2011).**

#### **Article 369. Deadlines for payment of tax**

1. Legal entities shall make payments of the current amounts at the place of registration of the taxation objects by making current payments not later than 5th July of the tax period.

2. Where the right of ownership, right of economic management or operative control of transport vehicles is acquired after the 1st July of the tax period, legal entities shall make the payment of tax relating to these transport vehicles not later than ten calendar days after the occurrence of the time for submission of the declaration for the tax period.

3. Date of payment of the tax to the budget for individuals shall be the date not later than 31st December of the tax period. Payment of the tax shall be effected at the place of registration of taxation objects. In case of registering, re-registering, of state or obligatory technical inspection of vehicles, individuals shall effect assessment and payment of the tax to the budget prior to undertaking these actions according to the procedure, established by this Code.

4. *excluded by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010) .*

5. Payment of tax on transport vehicles for a tax period made by an individual being an attorney acting on behalf of the owner on the basis of a power of attorney for driving a transport vehicle with the right alienation shall be recognized as fulfillment of tax liabilities of the owner of a transport vehicle for this tax period.

*Footnote. Article 369 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 24.01.2011 No. 399-IV (shall be enforced upon the expiry of 10 days after its first official publication).*

## **Chapter 52. THE TAX PERIOD AND TAX DECLARATIONS**

### **Article 370. Tax period**

The tax period for the assessment of tax on transport vehicles shall be determined according to Article 148 of this Code.

*Footnote. Article 370 as amended by the Law of the Republic of Kazakhstan dated 26.11.2010 No. 356-IV (shall be enforced from 01.01.2010).*

### **Article 371. Tax reports**

Legal entity payers shall submit to the tax authorities in the place of registration of taxation objects the assessments of current payments of tax on transport vehicles not later than the 5th July of the current tax period, and also declarations not later than the 31st March of the year following the reporting one.

## **SECTION 14. LAND TAX**

### **Chapter 53. GENERAL PROVISIONS**

## **Article 372. General provisions**

1. For the purposes of taxation all lands shall be considered depending on their special-purpose destination and belonging to the following categories:

- 1) lands of agricultural destination;
- 2) settlement lands;
- 3) lands of industry, transport, communication, defense and other non-agricultural destination (hereinafter - land of industry);
- 4) lands of specially protected natural territories, lands of health-improving, recreation and historic-cultural destination (hereinafter -lands of specially protected natural territories);
- 5) lands of forestry resources;
- 6) lands of water resources;
- 7) lands of reserve.

2. Belonging of lands to one or another category shall be established by the land legislation of the Republic of Kazakhstan. Settlement lands for the purposes of taxation shall be divided in two groups:

- 1) settlement lands, except for land occupied with housing resources, in particular buildings and structures attached to them;
- 2) lands occupied with housing resources, in particular buildings and structures attached to them.

3. The following categories of lands shall not be subject to taxation:

- 1) lands of specially protected natural territories;
- 2) lands of forestry resources;
- 3) lands of water resources;
- 4) lands of reserve.

Where specified lands (except for lands of reserve) are transferred in permanent land use or primary unpaid temporary land use, they shall be subject to taxation in accordance with the procedure established by Article 385 of this Code.

4. The amount of land tax shall not depend on results of business activity of land owners and land users.

5. Land tax shall be assessed on the basis of:

- 1) documents certifying the right of ownership, right of permanent land use, right of unpaid temporary land use;
- 2) data of the state quantity and quality accounting for lands as on the 1st January of each year, which are presented by the authorized state body for managing land resources.

## **Article 373. Payers**

1. Payers of land tax shall be individuals and legal entities having taxation objects:

- 1) on the right of ownership;
- 2) on the right of permanent land use;
- 3) on the right of primary unpaid temporary land use.

2. A legal entity shall have the right by its decision to recognize its structural unit as an independent land taxpayer.

Unless otherwise is provided for by this Article the decision of the legal entity or revocation of such decision shall become effective from January 1 of the year following the year in which such decision was made.

If a newly established structural unit shall be recognized as an independent land tax payer, the decision of the legal entity concerning such recognition shall become effective from the date of establishment of the respective structural unit or from January 1 of the year following the year of establishment of that structural unit.

3. Unless otherwise established by this Article the following shall not be recognized as payers of land tax:

1) payers of single land tax in respect of land plots used in activity that applies the special tax regime for peasant or farmer holdings;

2) state institutions;

3) state enterprises of corrective institutions of the authorized state body in the sphere of execution of criminal punishments;

4) participants in the Great Patriotic War and persons equated to them, persons awarded with orders and medals of the former Union of the SSR for selfless labor and irreproachable military service in the rear during the years of the Great Patriotic War, and also persons worked (serviced) not less than six months from the 22nd June 1941 to the 9th May 1945 and not awarded with orders and medals of the former Union of the SSR for selfless labour and irreproachable military services in the rear during the years of the Great Patriotic War, disabled, and also one of the parents of a disabled person from childhood in respect of:

land plots occupied with housing resources, in particular buildings and structures attached to them;

land plots attached to houses;

land plots allotted for keeping personal household (subsidiary) farms, gardens and dacha construction, in particular lands occupied with buildings;

land plots occupied with garages;

5) mothers having many children awarded with the "Mother-Heroine" title, awarded with the "Altyn alka" pendant, in respect of:

land plots occupied with housing resources, in particular buildings and structures attached to them;

land plots adjacent to the houses;

- 6) pensioners living alone in respect of:
  - land plots occupied with housing resources, in particular buildings and structures attached to them;
  - land plots adjacent to the houses;
- 7) religious associations.

4. The taxpayers specified in sub-paragraphs 3)-7) of paragraph 3 of this Article shall be taxpayers on land plots that are transferred on use, trust management or rent.

**Footnote. Article 373 as amended by the Law of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).**

#### **Article 374. Definition of the payer in certain cases**

1. In respect of a land plot that is held in joint ownership (use) of several persons, except for land plots which are recognized as assets of a mutual fund, each of those persons shall be recognized as payers of land tax, unless it is provided for otherwise in documents certifying the right of possession or use of this land plot or by agreement of the parties.

The payer of land tax in respect of land plots which are recognized as assets of a mutual fund shall be the managing company of this mutual fund.

2. Where there are no identifying documents to a land plot, the basis for recognition of the user as a payer of land tax in relation to the land plot shall be actual possession and use of such a plot:

1) acts of state authorities on allotment of the land plot - upon allotment of the land plot from state property;

2) civil law agreements and other grounds, provided for by the Law of the Republic of Kazakhstan, - in other cases.

3. The lessee shall be a payer of land tax in respect of a land plot transferred (received) under financial lease together with a real estate object in accordance with the financial lease agreement.

**Footnote. Article 374 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009)**

#### **Article 375. Taxation objects**

1. Taxation objects shall be land plots (in case of joint ownership of a land plot - a land share).

2. The following shall not be recognized as taxation objects:

1) settlement land plots of joint ownership.

Settlement land plots of joint ownership shall comprise lands occupied with and designated to be occupied with squares, streets, passages, roads, embankments, parks, public gardens, boulevards, water ponds, beaches, cemeteries and other objects for the purposes of satisfying needs of the population (water pipelines, heating pipelines, electric power transmission lines, purifying structures, ash and

slag pipelines, heat supply lines and other engineering systems of common use);

2) land plots occupied with the network of state motor roads of common use.

Lands occupied with the network of state motor roads of common use within the right-of-way shall comprise lands that are occupied with the road bed, grade-separated interchanges, elevated roads, artificial structures, reserves attached to roads and other structures for servicing of roads, official and residential premises of the road services, snow protecting and decorative plantations;

3) land plots occupied with objects that are under temporary closure under a decision of the Government of the Republic of Kazakhstan;

4) land plots purchased to maintain rental buildings.

#### **Article 376. Definition of taxation objects in certain cases**

1. Taxation objects for organizations of railway transport shall be land plots which are allotted in accordance with the procedure established by the legislation of the Republic of Kazakhstan for objects of organizations of railway transport, in particular land plots occupied with railways, right-of-ways, railway stations, terminals.

2. Taxation objects for organizations of the energy and electrification system whose balance-sheets comprise electric power transmission lines, shall be land plots allotted in accordance with the procedure established by the legislation of the Republic of Kazakhstan to those organizations, in particular land plots occupied with frames of electric power transmission lines and sub-stations.

3. Taxation objects for organizations carrying out production, transportation of petroleum and gas, whose balance-sheets comprise petroleum pipelines, gas pipelines, shall be land plots allotted in accordance with the procedure established by the legislation of the Republic of Kazakhstan to those organizations, in particular land plots occupied with petroleum pipelines, gas pipelines.

4. Taxation objects for organizations of communication, whose balance-sheets comprise radio relay, air, cable communication lines, shall be land plots allotted in accordance with the procedure established by the legislation of the Republic of Kazakhstan to those organizations, in particular land plots occupied with frames of communication lines.

#### **Article 377. Tax base**



The tax base for determination of land tax shall be areas of land plots.

## Chapter 54. TAX RATES

### Article 378. Basic tax rates for land of agricultural designation

1. Basic rates of land tax on land of agricultural destination shall be established per one hectare and they shall be differentiated according to quality of soils.

2. The following basic tax rates of land tax shall be established to lands of the steppe and dry steppe zones proportionally to quality points:

No.	Quality points	Basic tax rate (tenge)	No.	Quality points	Basic tax rate (tenge)
1	2	3	4	5	6
1.	1	0,48	51.	51	43,42
2.	2	0,67	52.	52	44,49
3.	3	0,87	53.	53	45,55
4.	4	1,06	54.	54	46,65
5.	5	1,25	55.	55	47,71
6.	6	1,45	56.	56	48,77
7.	7	1,68	57.	57	49,83
8.	8	1,93	58.	58	50,95
9.	9	2,16	59.	59	52,01
10.	10	2,41	60.	60	53,07
11.	11	2,89	61.	61	57,90
12.	12	3,09	62.	62	60,63
13.	13	3,28	63.	63	63,26
14.	14	3,47	64.	64	65,95
15.	15	3,67	65.	65	68,61
16.	16	3,86	66.	66	71,31
17.	17	4,09	67.	67	73,96
18.	18	4,34	68.	68	76,66
19.	19	4,57	69.	69	79,32
20.	20	4,82	70.	70	82,02
21.	21	5,31	71.	71	86,85
22.	22	5,79	72.	72	89,55
23.	23	6,27	73.	73	92,19
24.	24	6,75	74.	74	94,89
25.	25	7,24	75.	75	97,56
26.	26	7,72	76.	76	100,26
27.	27	8,20	77.	77	102,91
28.	28	8,68	78.	78	105,61
29.	29	9,17	79.	79	108,27

30.	30	9,65	80.	80	110,97
31.	31	14,47	81.	81	115,80
32.	32	15,54	82.	82	119,02
33.	33	16,59	83.	83	122,21
34.	34	18,08	84.	84	125,45
35.	35	18,76	85.	85	128,67
36.	36	19,82	86.	86	131,86
37.	37	20,88	87.	87	135,10
38.	38	22,00	88.	88	138,32
39.	39	23,06	89.	89	141,51
40.	40	24,12	90.	90	144,75
41.	41	28,95	91.	91	149,57
42.	42	30,01	92.	92	154,40
43.	43	31,07	93.	93	159,22
44.	44	32,17	94.	94	164,05
45.	45	33,23	95.	95	168,87
46.	46	34,29	96.	96	173,70
47.	47	35,36	97.	97	178,52
48.	48	36,48	98.	98	183,35
49.	49	37,54	99.	99	188,17
50.	50	38,60	100.	100	193,00
			101.	over 100	202,65

3. The following basic tax rates of land tax shall be established to lands of the semi-desert, desert and piedmont desert zones proportionally to quality points:

No.	Quality points	Basic tax rate (tenge)	No.	Quality points	Basic tax rate (tenge)
1	2	3	4	5	6
1.	1	0,48	51.	51	19,78
2.	2	0,54	52.	52	20,26
3.	3	0,58	53.	53	20,75
4.	4	0,62	54.	54	21,23
5.	5	0,67	55.	55	21,71
6.	6	0,73	56.	56	22,19
7.	7	0,77	57.	57	22,68
8.	8	0,81	58.	58	23,16
9.	9	0,87	59.	59	23,64
10.	10	0,96	60.	60	24,12
11.	11	1,45	61.	61	24,61
12.	12	1,83	62.	62	25,28
13.	13	2,22	63.	63	25,82
14.	14	2,55	64.	64	26,44

15.	15	2,93	65.	65	27,02
16.	16	3,32	66.	66	27,64
17.	17	3,71	67.	67	28,22
18.	18	4,05	68.	68	28,85
19.	19	4,44	69.	69	29,49
20.	20	4,82	70.	70	30,07
21.	21	5,31	71.	71	30,69
22.	22	5,79	72.	72	31,27
23.	23	6,27	73.	73	31,88
24.	24	6,75	74.	74	32,46
25.	25	7,24	75.	75	33,09
26.	26	7,72	76.	76	33,68
27.	27	8,20	77.	77	34,31
28.	28	8,68	78.	78	34,93
29.	29	9,17	79.	79	35,51
30.	30	9,65	80.	80	36,15
31.	31	10,13	81.	81	36,71
32.	32	10,61	82.	82	37,34
33.	33	11,09	83.	83	37,92
34.	34	11,58	84.	84	38,56
35.	35	12,06	85.	85	39,18
36.	36	12,54	86.	86	39,76
37.	37	13,03	87.	87	40,38
38.	38	13,51	88.	88	40,95
39.	39	13,99	89.	89	41,59
40.	40	14,47	90.	90	42,17
41.	41	14,96	91.	91	42,18
42.	42	15,44	92.	92	43,39
43.	43	15,92	93.	93	44,00
44.	44	16,40	94.	94	44,62
45.	45	16,89	95.	95	45,20
46.	46	17,37	96.	96	45,84
47.	47	17,85	97.	97	46,38
48.	48	18,33	98.	98	47,03
49.	49	18,82	99.	99	47,61
50.	50	19,30	100.	100	48,25
			101.	over 100	50,18

**Article 379. Basic tax rates for land of agricultural designation, granted to individuals**

Basic tax rates for land of agricultural destination granted to individuals for keeping personal household (subsidiary) farms, gardens and dacha construction, in particular lands occupied with buildings, shall be established in the following amounts:

- 1) for the area of up to 0,50 hectare inclusive - 20 tenge per 0,01 hectare;
- 2) for the area in excess of 0,50 hectare - 100 tenge per 0,01 hectare.

**Article 380. Basic tax rates for land of agricultural designation that is used for agricultural purposes**

Land plots that are recognized as settlement land, industry, specially protected natural territories, forestry and water resources, which are used for agricultural purposes, shall be levied with tax at the basic rates established by Article 378 of this Code, subject to conditions of paragraph 1 of Article 387 of this Code.

**Article 381. Basic tax rates for settlement lands (except for land plots attached to houses)**

The basic tax rates for settlement lands (except for land plots attached to houses) shall be established per one square meter of the area in the following amounts:

No.	Type of populated area	Basic tax rates for land of populated areas, except for land occupied with housing resources, in particular buildings and structures attached to them (tenge)	Basic tax rates for land occupied with housing resources, in particular buildings and structures attached to them (tenge)
1	2	3	4
	Cities:		
1.	Almaty	28,95	0,96
2.	Astana	19,30	0,96
3.	Aktau	9,65	0,58
4.	Aktobe	6,75	0,58
5.	Atyrau	8,20	0,58
6.	Karaganda	9,65	0,58
7.	Kyzylorda	8,68	0,58
8.	Kokshetau	5,79	0,58
9.	Kostanay	6,27	0,58
10.	Pavlodar	9,65	0,58
11.	Petropavlovsk	5,79	0,58
12.	Taldykorgan	9,17	0,58
13.	Taraz	9,17	0,58
14.	Uralsk	5,79	0,58
15.	Ust-Kamenogorsk	9,65	0,58
16.	Shimkent	9,17	0,58
17.	Almaty province:		

18.	cities of province importance	6,75	0,39
19.	cities of district importance	5,79	0,39
20.	Akmola province:		
21.	cities of province importance	5,79	0,39
22.	cities of district importance	5,02	0,39
23.	Other cities of province importance	85 per cent of the rate established for the province center	0,39
24.	Other cities of district importance	75 per cent of the rate established for the province center	0,19
25.	Settlements	0,96	0,13
26.	Villages (auls)	0,48	0,09

### **Article 382. Basic tax rates for land plots attached to houses**

A part of the land plot shall be recognized as attached to a house where it is related to settlement lands, designated to serve a residential house (dwelling) and not occupied with residential house (dwelling), in particular buildings and structures attached to.

Land plots attached to houses shall be levied at the following basic tax rates:

1) for the cities of Astana, Almaty and cities of province importance:

for the area of up to 1000 square metres inclusive - 0,20 tenge per 1 square metre;

for the area in excess of 1000 square metres - 6,00 tenge per 1 square metre.

According to a decision of local representative bodies tax rates for land plots that exceed 1000 square metres may be reduced from 6,00 to 0,20 tenge per 1 square metre;

2) for other populated areas:

for the area of up to 5000 square metres inclusive - 0,20 tenge per 1 square metre;

for the area in excess of 5000 square metres - 1,00 tenge per 1 square metre.

According to a decision of local representative bodies tax rates for land plots that exceed 5000 square metres may be reduced from 1,00 to 0,20 tenge per 1 square metre.

**Footnote. Article 382 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012)**

### **Article 383. Basic tax rates for land of industries, situated outside populated areas**

1. Basic tax rates for land of industry situated outside populated areas shall be established per one hectare in the following amounts proportionally to quality points:

No.	Quality points	Basic tax rate (tenge)	No.	Quality points	Basic tax rate (tenge)
1	2	3	4	5	6

1.	0	48,25	52.	51	2634,45
2.	1	91,67	53.	52	2690,23
3.	2	135,10	54.	53	2745,95
4.	3	178,52	55.	54	2801,72
5.	4	221,95	56.	55	2857,46
6.	5	265,37	57.	56	2913,24
7.	6	308,80	58.	57	2968,96
8.	7	352,22	59.	58	3024,73
9.	8	395,65	60.	59	3080,47
10.	9	439,07	61.	60	3136,25
11.	10	482,50	62.	61	3188,36
12.	11	530,75	63.	62	3247,75
13.	12	592,41	64.	63	3325,49
14.	13	654,08	65.	64	3364,61
15.	14	715,68	66.	65	3423,05
16.	15	777,35	67.	66	3489,25
17.	16	839,01	68.	67	3539,95
18.	17	900,67	69.	68	3598,39
19.	18	962,29	70.	69	3656,81
20.	19	1023,96	71.	70	3715,25
21.	20	1084,66	72.	71	3769,29
22.	21	1138,70	73.	72	3829,64
23.	22	1189,07	74.	73	3890,53
24.	23	1239,35	75.	74	3951,67
25.	24	1287,73	76.	75	4012,79
26.	25	1340,29	77.	76	4073,88
27.	26	1390,66	78.	77	4135,02
28.	27	1441,07	79.	78	4196,15
29.	28	1491,45	80.	79	4257,23
30.	29	1541,88	81.	80	4319,34
31.	30	1592,25	82.	81	4371,45
32.	31	1646,29	83.	82	4432,57
33.	32	1693,03	84.	83	4493,66
34.	33	1740,76	85.	84	4554,80
35.	34	1788,47	86.	85	4615,92
36.	35	1836,20	87.	86	4677,01
37.	36	1883,87	88.	87	4738,15
38.	37	1931,58	89.	88	4799,27
39.	38	1979,31	90.	89	4860,36
40.	39	2027,02	91.	90	4921,50
41.	40	2074,75	92.	91	4975,54
42.	41	2126,86	93.	92	5054,48

43.	42	2178,19	94.	93	5134,32
44.	43	2228,61	95.	94	5214,22
45.	44	2278,98	96.	95	5294,09
46.	45	2329,41	97.	96	5373,99
47.	46	2379,79	98.	97	5453,83
48.	47	2340,22	99.	98	5533,73
49.	48	2480,57	100.	99	5613,59
50.	49	2531,00	101.	100	5693,50
51.	50	2582,34	102.	over 100	5790,00

1. Lands allotted for needs of defence, except for lands which are temporarily used by other land users in accordance with the land legislation of the Republic of Kazakhstan, shall be subject to taxation at the rates established by paragraph 1 of this Article.

2. Lands allotted for needs of defence, which are temporarily not used for needs of defence and given other land users for agricultural purposes, shall be subject to taxation at the rates established by Article 378 with regard for conditions of paragraph 1 of Article 387 of this Code.

3. Lands of enterprises of railway transport which are occupied with protective forest plantations alongside main railways shall be levied with tax at the rates established by Article 378 of this Code subject to conditions of paragraph 1 of Article 387 of this Code.

#### **Article 384. Tax rates for land of industries, situated inside populated areas**

1. Lands of industries (in particular mines, open pits) and their sanitary- protective, technical and other zones situated inside populated areas (except for lands specified in paragraph 3 of this Article and in Article 386 of the Code) shall be levied with tax at the basic rates established by Article 381 of this Code with regard for conditions of paragraph 1 of Article 387 of this Code.

2. Basic rates for lands of industries (in particular mines, open pits) and their sanitary-protective, technical and other zones situated inside the limits of populated areas but outside residential territory(except for lands specified in paragraph 3 of this Article and in Article 386 of the Code) may be reduced by decisions of local representative authorities. The total reduction of tax rates for specified land with regard for the reduction established by paragraph 1 of Article 387 of this Code must not exceed 30 per cent of the basic rate.

3. Lands of industries situated inside populated areas which are occupied with airdromes shall be levied with tax at the basic rates established by Article 383 of this Code with regard for conditions of paragraph 1 of Article 387 of this Code.

Lands of industries situated inside populated areas which are occupied with airports , except for land occupied with airdromes, shall be levied with tax at the basic rates established by Article 381 of this Code with regard for conditions of paragraph 1 of Article 387 of this Code.

For the purposes of this Code, the airfield is understood the land, specially trained and equipped for take-off, landing, taxiing, parking and maintenance of aircraft.

**Footnote. Article 384 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2011).**

**Article 385. Tax rates for land of especially protected natural territories, forestry and water resources**

1. Land of especially protected natural territories, forestry resources and water resources which is used for agricultural purposes shall be levied with land tax at the basic rates established by Article 378 of this Code with regards for conditions of paragraph 1 of Article 387 of this Code.

2. Land of especially protected natural territories, forestry resources and water resources which is allotted to physical and legal entities to be used for other purposes besides agricultural ones shall be taxed at the rates established by Article 383 with regard for conditions of paragraph 1 of Article 387 of this Code.

**Article 386. Tax rates for land plots allotted for parking lots (parking), fuelling stations, occupied by casino**

**Footnote. The title of Article 386 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2011).**

1. Settlement lands allotted for fuelling stations shall be levied at the basic rates for settlement lands, which are established in the line 3 of the table of Article 381 of this Code, increased by ten times.

Land of other categories allotted for fuelling stations shall be taxed at the basic rates for settlement lands, which are established for land of the nearest populated area in the line 3 of the table of Article 381 of this Code, increased by ten times. Therewith, local representative authorities shall determine a nearest populated area whose basic rates for land shall be applied in the assessment of tax.

Under a decision of the local representative authority tax rates may be reduced but not below than ones established by Article 381 of this Code.

2. Settlement lands occupied with casinos shall be taxed at the basic rates for settlement lands established by Article 381 of this Code, increased by ten times. Land of other categories occupied with casinos shall be taxed at the basic rates for settlement lands, except for land occupied with housing resources, in particular buildings and



structures attached to them, which are established for land of the nearest populated area by Article 381 of this Code increased by ten times. Basic rates for settlement lands which are applied in the assessment of tax shall be established by local representative authorities.

Under a decision of local representative authorities tax rates may be reduced but not below than ones established by Article 381 of this Code.

3. Settlement lands allotted for parking lots (parking) shall be taxed at the basic rates for settlement lands, which are established in line 3 of the table of Article 381 of the Code. Land of other categories allotted for parking lots (parking) shall be taxed at the basic rates for settlement lands, which are established for land of the nearest populated area in line 3 of the table of Article 381 of this Code. Therewith, local representative authorities shall determine a nearest populated area whose basic rates for land shall be applied in the assessment of tax.

Under a decision of the local representative authority basic tax rates for land allotted for parking lots (parking) can be increased but not more than by ten times. Increase of rates that is provided for by this paragraph shall be exercised depending on the category of parking lots (parking), which are established by the local representative authority.

In that respect it shall not be allowed to exceed rates of land tax for certain taxpayers.

**Footnote. Article 386, as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2011).**

**Note of the RCLII!**

**Article 387 as amended by the Law of of the Republic of Kazakhstan dated 09.01.2012 No. 535-IV (shall be enforced from 01.01.2013).**

### **Article 387. Adjustment of basic tax rates**

1. On the basis of projects (schemes) of land zoning conducted in accordance with the land legislation of the Republic of Kazakhstan local representative authorities shall have the right to reduce or raise rates of land tax not more than by 50 per cent from the basic rates of land tax that are established by Articles 378, 379, 381, 383 of this Code, except for land allocated (allotted) for parking lots (parking), fuelling stations and occupied with casinos.

2. When assessing tax the following payers shall apply the coefficient 0,1 to appropriate rates:

- 1) health-improving children institutions;
- 2) legal entities determined by Article 134 of this Code, except for religious associations;
- 3) legal entities determined by paragraph 2 of Article 135 of this Code;

- 4) state-owned enterprises whose basic of activity is performance of work for fire arrangement for forests, fighting against fires, pests and diseases of forests, reproduction of natural biological resources and improvement of ecological potential of forests;
- 5) state-owned enterprises of fish reproducing destination;
- 6) state-owned enterprise performing functions in the field of state attestation of scientific personnel;
- 7) medical productive enterprises at psychoneurologic and tuberculosis institutions.

3. The legal entities determined by paragraph 3 of Article 135 and paragraph 1 of Article 135-1 of this Code when assessing tax shall apply the coefficient 0 to appropriate rates.

4. The payers of land tax specified in paragraph 2 of this Article when transferring a land plot or its part (together with buildings, structures situated on it or without them) on rent, for use on other bases or when using them for commercial purposes, shall assess tax without the application of the coefficient 0,1 in accordance with the procedure established by Chapter 55 of this Code.

5. Organizations carrying out activity in territories of special economic zones shall assess land tax with regard for the provisions established by sub-paragraph 1) of paragraph 3 of Article 151 of this Code.

**Footnote. Article 387 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.01.2011); dated 19.01.2011 No. 395 -IV (shall be enforced from 01.01.2011).**

## **Chapter 55. THE PROCEDURE FOR THE ASSESSMENT AND DEADLINES FOR PAYMENT OF TAX**

### **Article 388. General procedure for the assessment and payment of tax**

1. The assessment of tax shall be made by the application of the appropriate tax rate to the tax base separately by each land plot. Taxpayers applying the special tax regime for legal entities which are producers of agricultural products, aquacultural (fishery) products and rural consumer cooperatives shall assess tax with regard for the specifics established by Article 451 of this Code.

2. Unless otherwise is established by this Chapter, upon allotment by the state of the right of ownership, right of permanent or primary gratuitous temporary land use for the land plot, the taxpayer shall assess land tax starting from the month following the month of provision of such rights on the land plot.

3. In case of termination of the right of possession or right of use of a land plot land tax shall be assessed for the actual period of use of the land plot.

4. The payment of land tax shall be made to the budget in the place of location of land plots.

5. Where populated areas are transferred from one category of settlements to another one within a tax year, land tax in the current year shall be collected from taxpayers at the rates established for those populated areas, and in the next year it shall be made at the rates established for the new category of settlements.

6. Where a populated area is abolished or its territory is entered in another populated area, in the territory of the abolished populated area the new rate shall be applied from the year following the year in which the abolishment took place.

7. Where it is impossible to determine quality points of land plots occupied by taxpayers, the amount of land tax shall be determined basing on quality points of adjacently situated land.

8. In respect of taxation objects which are held in common share ownership tax shall be assessed proportionally to their portion in this land plot.

9. A land plot being a part of the condominium unit shall be subject to the land tax in proportion to the share of each owner of premises (a part of the building) in common property being a part of the condominium unit.

In that case the part of the land plot corresponding to:

1) the share of the house owner in common property shall be subject to the land tax at the basic rates of tax for the populated areas lands established in column 4 of the table presented in Article 381 of this Code;

2) the share of the owner of nonresidential premises (a part of a building which is not residential) in the common property shall be subject to the land tax at the basic rates of the land tax for lands of the populated areas established in column 3 of the table presented in Article 381 of this Code.

**Footnote. Article 388 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 21.01.2010 No. 242-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 389. The procedure for the assessment and deadlines for payment of tax by legal entities**

1. Legal entities shall independently assess amounts of land tax by the application of the appropriate tax rate to the tax base.

2. Legal entities shall be obliged to assess and pay current payments of land tax within the tax period.

3. Amounts of current payments shall be paid in equal shares not later than on the 25th February, 25th May, 25th August, 25th November of the current year.

In respect of newly organized taxpayers the subsequent term following the date of organization of the taxpayer shall be recognized as a first term of payment of current payments. Taxpayers organized after the last term of payment of current payments shall pay the amount of tax for the current tax period in accordance with the deadlines provided for by paragraph 9 of this Article.

4. Amounts of current payments shall be determined by the application of appropriate tax rates to the tax base in respect of taxation objects that are available at the beginning of the tax period.

5. Where tax liabilities arise within the tax period, the subsequent term established by paragraph 3 of this Article which follows the date of arising of the tax liability in respect of payment of land tax, shall be recognized as a first term of payment of current amounts of tax. Where the legal entities specified in sub-paragraphs 3) and 7) of paragraph 3 of Article 373 of this Code transfer taxation objects under use or rent, the subsequent term following the date of transfer of taxation objects under use, trust management or rent shall be recognized as a first term of payment of current amounts of tax.

6. Where tax liabilities emerge after the last term of payment of current payments, the final assessment and payment of the tax amount shall be made in accordance with the deadlines provided for by paragraph 9 of this Article.

In respect of taxation objects transferred under use, trust management or rent by the legal entities specified in sub-paragraphs 3) and 7) of paragraph 3 of Article 373 of this Code after the last term of payment of current payments, the final assessment and payment of the amount of tax shall be made in accordance with the deadlines provided for by paragraph 9 of this Article.

7. Where liabilities in respect of land tax change within the tax period, current payments shall be adjusted by the amount of change of tax liabilities in equal shares in accordance with coming terms of payment of land tax.

8. Where rights to taxation objects are transferred within the tax period, the amount of tax shall be assessed for the actual period of possession of land plots.

The tax amount payable for the actual period of possession of a land plot by the person who transfers said rights shall be paid the budget before or at the time of state registration of the rights. In this case the primary payer shall assess the amount of tax from the 1st January of the current year to the beginning of the month in which this payer transfers the land plot. The next payer shall assess the amount of tax for the period from the beginning of the month in which this payer has the right to the land plot arisen. During the state registration of rights to a land plot the annual amount of tax may be paid the budget by either of the parties (by agreement). Subsequently, amounts of tax paid during the state registration of rights to the land plot shall not be paid repeatedly.

9. The taxpayer shall make the final assessment and pay land tax not later than ten calendar days after the time for submission of declarations for the tax period occurs.

**Footnote. Article 389 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2010).**

**Article 390. Specifics of the assessment, payment of tax and submission of tax reports in certain cases**

1. For land plots on which buildings, constructions or structures are situated that are used by several taxpayers land tax shall be assessed separately by each taxpayer proportionally to the area of buildings and structures which are in their separate use.

2. Where the legal entities specified in sub-paragraphs 3) and 7) of paragraph 3 of Article 373 of this Code transfer a part of a building or a structure for use, trust management or rent land tax shall be assessed depending on unit weight of the area of a part of a building or a structure transferred for use, trust management or let on rent against the total area of all buildings and structures which are situated on this land plot.

3. Where the legal entity purchases real estate which is recognized as a part of housing resources, land tax shall be assessed at the basic tax rates for settlement lands, except for land occupied with housing resources, in particular buildings and structures attached to them, as established by Article 381 of this Code.

4. *excluded by the Law of the Republic of Kazakhstan dated 20.07.2011 No. 467-IV (shall be enforced from 01.01.2010).*

**Footnote. Article 390 is in the wording of the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).**

**Article 391. The procedure for the assessment and payment of tax by individuals**

1. Unless otherwise is specified by this Article, assessment of land tax payable by individuals (except for persons indicated in the second part of this paragraph) shall be made by tax authority not later than the 1st August of the current year based on the appropriate tax rates and tax base.

Provisions of this paragraph do not apply to:

individual entrepreneurs;

individuals (including private notaries, private enforcement agents, lawyers) in relation to the land plots occupied with nonresidential premises (parts of premises)

which are under ownership, to the exception of the objects provided for by paragraph 1 of Article 396 of this Code and objects of the taxable income for which shall be assessed in accordance with Article 406 of this Code.

2. Where rights to taxation objects are transferred within the tax period, the amount of tax shall be assessed with regard for provisions of paragraph 8 of Article 389 of this Code.

3. Individuals shall pay land tax to the budget as assessed by the tax authority not later than the 1st of October of the current year.

4. Where the tax liability emerges after the 1st of October of the current year, the payment of the amount of tax shall be made not later than in thirty working days after the state registration of the right of ownership of the taxation object.

5. Individual entrepreneurs shall assess and pay land tax on land plots which are used in their activity in accordance with the procedure established by Article 389 of this Code.

6. Individual entrepreneurs applying special tax regime on the basis of a patent shall assess land tax in relation to land plots which are used in their activity in accordance with the procedure established by Article 389 of this Code. At that land tax shall be paid not later than within ten calendar days after the time for submission of a declaration for the corresponding tax period comes.

7. Individuals (including private notaries, private enforcement agents, and lawyers) in relation to the land plots occupied with buildings (parts of buildings) property which are under ownership, except for the objects provided for by Article 396 paragraph 1 of this Code and objects the taxable income for which shall be assessed in accordance with Article 406 of this Code, shall assess and pay the land tax in accordance with the procedure provided for by this Chapter for individual entrepreneurs applying a special tax regime on the basis of a patent.

**Footnote. Article 391 is in the wording of the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); as amended by the Laws of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.01.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2011**

## **Chapter 56. THE TAX PERIOD AND TAX REPORTS**

### **Article 392. The tax period**

The tax period for the assessment of land tax shall be determined according to Article 148 of this Code.

**Footnote. Article 392 as amended by the Law of the Republic of Kazakhstan dated 21.07.2009 No. 234-IV (shall be enforced from 01.01.2012)**



## **Article 393. Tax reports**

1. Individual entrepreneurs (except for individual entrepreneurs applying special tax regime on the basis of a patent) and legal entities shall submit a declaration to the tax authority at the place of location of taxation objects not later than the 31st of March of the year following the tax reporting period as well as assessment of current payments within the period of time established by this Article.

Individual entrepreneurs applying special tax regime on the basis of a patent shall submit a declaration to the tax authority at the place of location of taxation objects not later than the 31st of March of the year following the tax reporting period.

1-1. Individuals shall not submit land tax returns to tax authorities, unless otherwise is set forth by paragraph 1 of this Article and this paragraph.

Individuals (including private notaries, private enforcement agents, and lawyers) in relation to the land plots occupied with beneficially owned buildings (parts of buildings), except for the objects provided for by Article 396 paragraph 1 of this Code and objects the taxable income for which shall be assessed in accordance with Article 406 of this Code, shall submit their returns to tax authorities for the place of the taxation objects location on or before March 31 of the year following the reporting tax period.

2. Assessments of current payments in respect of land tax shall be submitted not later than the 15th February of the current tax period.

3. Newly organized taxpayers, except for taxpayers organized after the last term of payment of current payments, shall submit assessments of current payments not later than the 15th day of the month following the month of registration accounting of taxpayers.

The provisions of this paragraph shall apply to individual entrepreneurs (with the exception of those applying special tax regime on the patent basis) and legal entities.

4. The legal entities specified in sub-paragraphs 3) and 7) of paragraph 3 of Article 373 of this Code in respect of taxation objects transferred under use, trust management or rent shall submit assessments of current payments in accordance with the deadlines provided for by paragraph 5 of this Article.

5. Where tax liabilities in respect of land tax change within the tax period, assessments of current payments shall be submitted not later than the 15th February, 15th May, 15th August and 15th November of the current tax period in respect of taxation objects as on the 1st February, 1st May, 1st August and 1st November, respectively.

**Footnote. Article 393 as amended by the Laws of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (the order of enforcement see Article 2); dated 21.07.2011 No. 467-IV IV (the order of enforcement see Article 2)**

## **SECTION 15. PROPERTY TAX**

### **Chapter 57. TAX ON PROPERTY OF LEGAL ENTITIES AND INDIVIDUAL ENTREPRENEURS**

#### **Article 394. Taxpayers**

1. The following shall be payers of property tax:

1) legal entities having taxation objects on the right of ownership, economic management or operative control in the territory of the Republic of Kazakhstan;

2) individual entrepreneurs having taxation objects on the right of ownership in the territory of the Republic of Kazakhstan;

3) a concessionaire who in accordance with ownership, use rights has a taxation object, which is a concession object, in accordance with a concession agreement.

2. A legal entity shall have the right by its decision to recognize its structural unit as an independent payer of tax on property. Unless otherwise is established by this Article, the decision of the legal entity or revocation of such decision shall be put in effect from January 1 of the year following the year when such decision was made.

If a newly established structural unit shall be recognized as an independent payer of tax on property, the decision of the legal entity concerning such recognition shall be put in effect from the date of establishment of the respective structural unit or from January 1 of the year following the year of establishment of such structural unit.

3. The taxpayers specified in paragraph 2 of this Article shall assess and pay property tax in accordance with the procedure established by this Chapter for legal entities.

4. Unless otherwise established by this Article, the following shall not be recognized as payers of tax on property:

1) payers of single land tax in respect of taxation objects held of the right of ownership that are directly used in the process of production, storage and processing of own agricultural produce.

Payers of single land tax in respect of taxation objects that are not used directly in the process of production, storage and processing of own agricultural produce shall pay property tax in accordance with the procedure established by this part;

2) state institutions;

3) state-owned enterprises of corrective institutions of the authorized state body in the sphere of execution of criminal punishments;

4) religious associations.

Legal entities specified in sub-paragraphs 3) and 4) of this paragraph are taxpayers in relation to taxation objects transferred for use, trust management or leasing.



Footnote. Article 394 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).

#### **Article 395. Definition of a taxpayer in certain cases**

1. Where the owner transfers the taxation object for trust management, the taxpayer shall be defined in accordance with Articles 35 and 36 of this Code.

In this case the payment of tax by the trust manager shall be recognized as the fulfillment of the tax liability of the owner of the taxation object.

2. *excluded by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).*

3. Where taxation objects are held on common share ownership of several persons, except for taxation objects which are recognized as assets of a unit share investment fund, each of said persons shall be a taxpayer.

4. The payer of tax on taxation objects which are held in joint ownership may be either of the owners of these taxation objects by agreement between them.

5. Lessees shall be payers of tax in respect of objects transferred under financial leases.

6. The payer of tax in respect of taxation objects recognized as assets of a mutual fund shall be the managing company of the mutual fund.

Footnote. Article 395 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).

#### **Article 396. Taxation objects**

1. Taxation objects for individual entrepreneurs and legal entities shall be the following facilities, located on the territory of the Law of the Republic of Kazakhstan:

1) buildings, structures, referred to as such in accordance withification, established by authorized state body in the field of technical regulation, and included as main assets or investment into real estate in accordance with the international accounting standards and the requirements of the Law of the Republic of Kazakhstan on accounting and financial reporting;

2) buildings and constructions being concession objects the right of ownership or use of which have been transferred under the concession agreement.

2. The following shall not be recognized as taxation objects:

1) land as an object for levying land tax in accordance with Articles 375 and 376 of this Code;

2) buildings, structures which are under temporary closure under decisions of the Government of the Republic of Kazakhstan;

3) state-owned motor roads of common use and road structures attached to them:  
right-of-way;  
structural elements of roads;  
situation and arrangement of roads;  
bridges;  
overbridges;  
viaducts;  
grade-separated interchanges;  
tunnels;  
protective galleries;  
structures and appliances designated to improve traffic safety;  
water drain and conduit structures;  
forest zones alongside roads;  
linear residential houses and complexes of road operation services;  
4) objects of construction in progress.

**Footnote. Article 396 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467 -IV (shall be enforced from 01.01.2012).**

#### **Article 397. Tax base**

1. Unless otherwise is established by this Article, the tax base on taxation objects of individual entrepreneurs and legal entities shall be the yearly average book value of taxation objects which is determined according to data of the bookkeeping.

Where there is no yearly average book value of the objects of concession, the value of such objects determined in accordance with the procedure established by the Government of the Republic of Kazakhstan shall be recognized as the tax base.

2. The yearly average book value of taxation objects shall be determined as one thirteenth of the amount obtained in summing up the book value of taxation objects as on the first day of each month of the current tax period and the first day of the month of the period following the reporting one.

In case the terms of a subsurface use contracts provide for fulfillment of liabilities in respect of dismantling and removal of taxation objects and the provisions of the Ecological Code of the Republic of Kazakhstan provide for the fulfillment of the measures related to the liquidation fund of waste dumps, the provisions assessment of such liabilities determined in accordance with the international financial reporting standards and requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting shall not be included in the book value of taxation objects.

3. In respect of taxation objects of the legal entities specified in sub-paragraph 3) and 4) of paragraph 4 of Article 394 of this Code the tax base shall be determined basing on the unit share of said taxation objects transferred under use, trust management or rent.

4. The tax base in respect of taxation objects of individual entrepreneurs applying the special tax regime of the basis of a patent shall be the purchase price of taxation objects. Where there is no such price, the tax base shall be understood as the Republic of Kazakhstan value in accordance with data of valuation to be carried out in accordance with the agreement between the appraiser and the taxpayer in accordance with the legislation of the Republic of Kazakhstan on valuation activity.

**Footnote. Article 397 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).**

**Note of the RCL!**

**Article 398 as amended by the Law of the Republic of Kazakhstan dated 09.01.2012 No. 535-IV (shall be enforced from 01.01.2013).**

### **Article 398. Tax rates**

1. Legal entities (except for those specified in paragraphs 2, 3, 3-1 of this Article) shall assess property tax at a rate of 1.5 per cent of the tax base.

2. Property tax at a rate of 0.5 per cent of the yearly average value of taxation objects shall be assessed by the following payers:

- 1) individual entrepreneurs;
- 2) legal entities that enjoy special tax regime on the basis of a simplified declaration.

3. Legal entities specified herein below shall assess property tax at a rate of 0,1 per cent of the tax base:

- 1) legal entities determined by Article 134 of this Code, except for religious associations;
- 2) legal entities determined by Article 135 of this Code;
- 3) organizations whose basic of activity is performance of work (rendering of services) in the field of library servicing;
- 4) state-owned enterprises performing functions in the field of state attestation of scientific personnel;
- 5) legal entities in respect of objects of water storage ponds, hydro units and other water management structures of nature protective destination which are in state ownership and which are financed at the expense of funds of the budget;

6) legal entities in respect of objects of hydro melioration structures used for irrigation of land of legal entities that are agricultural producers and peasant or farmer holdings;

7) legal entities with respect to objects of drinking water supply.

3-1. Legal entities specified in paragraph 1 of Article 135-1 of the Code shall calculate property tax at the rate of 0 percent to the tax base.

4. The legal entities specified in paragraph 3 of this Article, except for persons defined in paragraph 3 of Article 135 of this Code, in respect of taxation objects transferred under use, trust management or rent shall assess and pay property tax at the tax rate established by paragraph 1 of this Article.

5. Organizations carrying out activity in territories of special economic zones shall assess property tax with regard for provisions established by sub-paragraph 2) of paragraph 3 of Article 151 of this Code.

**Footnote. Article 398 as amended by the Law of Republic of Kazakhstan dated 04.07.2009 No. 167-IV (shall be enforced from 01.01.2009); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 19.01.2011 No. 395-IV (shall be enforced from 01.01.2011).**

#### **Article 399. The procedure for the assessment and payment of tax**

1. The assessment of tax shall be made by taxpayers independently by the application of appropriate tax rates to the tax base. Taxpayers applying the special tax regime for legal entities that are producers of agricultural products, aquacultural (fishery) products and rural consumer cooperatives shall assess tax with regard for the specifics established by Article 451 of this Code.

2. In respect of taxation objects which are in common share ownership property tax for each taxpayer shall be assessed proportionally to the taxpayer's share in the value of assets.

3. Payers of tax, except for individual entrepreneurs enjoying special tax regimes on the basis of a patent, shall be obliged to pay within the tax period current payments of property tax which are determined by the application of the appropriate tax rate to the book value of taxation objects that is determined according to data of the bookkeeping as at the beginning of the tax period.

4. The payment of tax shall be made to the budget in the place of location of taxation objects.

5. Amounts of current payments shall be paid by taxpayers, except for individual entrepreneurs enjoying special tax regimes on the basis of a patent, in equal portions

not later than on the 25th February, 25th May, 25th August and 25th November of the tax period. For newly organized taxpayers and legal entities specified in sub-paragraph 3) and 4) of paragraph 4 of Article 394 of this Code the

first term of payment of current payment shall be a sequential term following the date of organization of the taxpayer (the date of transfer of taxation objects under use, trust management or rent).

Taxpayers organized after the last time of payment of current payments and legal entities specified in sub-paragraph 3) and 4) of paragraph 4 of Article 394 of this Code when transferring taxation objects under use, trust management or rent after the last time of payment of current payments, shall pay the amount of tax for the current tax period in accordance with the deadlines provided for by paragraph 7 of this Article.

6. In the case of receiving taxation objects during a tax period, current payments of property tax shall be increased by amount to be computed by way of applying a tax rate to 1/13 of the historic value of received taxation objects as determined on the basis of accounting information as of the date of receiving multiplied by the number of months of current tax period beginning the month following a month of receiving taxation objects, until the end of the tax period. Amount by which current payments are to be increased shall be distributed in equal portions in accordance with the periods established by paragraph 5 of this Article, in that respect, the first date of payment of current payments shall be the next regular date following a date of receiving taxation objects. In the case of disposal during a tax period of taxation objects, current payments shall be reduced by amounts to be computed by way of applying the tax rate to 1/13 of the value of disposed taxation objects, multiplied by the number of months of current tax period beginning the month of disposal of taxation objects, until the end of the tax period.

In that respect, the value of disposed taxation objects shall be:

historic value on the basis of accounting information as of the date of receiving - for taxation objects, received during current tax period;

the balance sheet value on the basis of accounting information as of the date of beginning of tax period - for the rest of taxation objects. Amounts by which current payments are to be reduced, shall be distributed in equal portions amongst remaining periods for the payment of current payment.

7. Taxpayers shall perform the final assessment and pay property tax not later than in ten calendar days after the arrival of the date for the submission of declarations for the tax period.

8. Individual entrepreneurs who apply special tax regimes on the basis of patents, shall pay property tax not later than ten calendar days after the arrival of the date for the submission of declarations for the tax period.

Footnote. Article 399 as amended by the Law of the Republic of Kazakhstan dated 04.07.2009 No. 167-IV (shall be enforced from 01.01.2009); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 21.01.2010 No. 3242-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2010)

#### **Article 400. The assessment and payment of tax in certain cases**

In respect of taxation objects used for business activity individual entrepreneurs shall assess and pay tax at the rates and in accordance with the procedure which are established by this Chapter.

#### **Article 401. The tax period**

1. The tax period for the assessment of property tax shall be determined according to Article 148 of this Code.

2. For the legal entities specified in sub-paragraph 3) and 4) of paragraph 4 of Article 394 of this Code the tax period shall be determined from the time of transfer of taxation objects under use, trust management or rent to the time of the end of such a use.

Footnote. Article 401 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).

#### **Article 402. Tax reports**

1. Taxpayers, except for individual entrepreneurs enjoying special tax regimes on the basis of a patent, shall be obliged to submit to the tax authorities in the place of location of taxation objects assessments of amounts of current payments and declarations.

Individual entrepreneurs enjoying special tax regimes on the basis of a patent, shall be obliged to submit declarations to the tax authorities in the place of location of taxation objects. The legal entities specified in sub-paragraph 3) and 4) of paragraph 4 of Article 394 of this Code in respect of taxation objects transferred under use, trust management or rent shall submit tax reports in accordance with the procedure established by this Article.

2. Assessments of amounts of current payments of property tax shall be submitted not later than on the 15th February of the reporting tax period. Newly organized taxpayers shall submit assessments of amounts of current payments not later than on the 15th day of the month following the month of registration accounting at the tax authorities.

The legal entities specified in sub-paragraph 3) and 4) of paragraph 4 of Article 394 of this Code in respect of taxation objects transferred under use, trust management or rent shall submit assessments of amounts of current payments not later than on the 15th day of the month following the month of transfer of objects under use or rent.

3. Where tax liabilities in respect of property tax change within the tax period, assessments of current payments shall be submitted not later than on the 15th February, 15th May, 15th August and 15th November of the current tax period in respect of taxation objects as on the 1st February, 1st May, 1st August and 1st November, respectively.

4. Declarations shall be submitted not later than on the 31st March of the year following the reporting one.

**Footnote. Article 402 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467 -IV (shall be enforced from 01.01.2010);**

## **Chapter 58. THE TAX ON PROPERTY OF INDIVIDUALS**

### **Article 403. Taxpayers**

1. Payers of tax on property of individuals shall be individuals having taxation objects in accordance with Article 405 of this Code.

2. The following shall not be payers of tax on property of individuals:

1) military servicemen of service for regular term during the period of military service for regular term (training);

2) Heroes of the Soviet Union, Heroes of Socialist Labour, persons conferred with the "Khalyk kaharmany", "Kazakhstannyn Enbek Eri" titles, awarded with the Order of Glory of the three degrees and the Order "Otan", mothers having many children honoured with the title 'Mother Heroine', awarded with the "Altyn alka" pendant, living alone pensioners - within a 1000-time amount of the monthly calculation index established by the Law on the republican budget and effective as of 1st January of the corresponding financial year, of the total value of all taxation objects they hold on the right of ownership;

3) participants in the Great Patriotic War and persons equated to those, disabled of the I and II groups - within a 1500-time amount of the monthly calculation index established by the Law on the republican budget and effective as of 1st January of the corresponding financial year, of the total value of all taxation objects they hold on the right of ownership;

4) persons awarded with orders and medal of the former Union of the SSR for selfless labour and irreproachable military service in the rear during the years of the Great Patriotic War, and also persons work (served) not less than six months from the



22nd June 1941 to the 9th May 1945 and not awarded with orders and medals of the former Union of the SSR for selfless labor and irreproachable

military service in the rear during the years of the Great Patriotic War - within a 1500-time amount of the monthly calculation index established by the Law on the republican budget and effective as of 1st January of the corresponding financial year, of the total value of all taxation objects they hold on the right of ownership.

The persons specified in sub-paragraphs 1)-4) of this paragraph in respect of taxation objects transferred under use or rent shall assess and pay tax in accordance with the procedure established by this Chapter;

5) individual entrepreneurs in respect of taxation objects used for business activity.

**Footnote. Article 403 as amended by the Law of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article 2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 404. Definition of the taxpayer in certain cases**

1. Where the owner transfers taxation objects under trust management, the taxpayer shall be defined in accordance with Articles 35, 36 of this Code.

2. Where taxation objects are in common share ownership of several persons, each of those persons shall be recognized as a taxpayer.

3. The payer of tax in respect of taxation objects which are in common joint ownership may be either of the owners of said taxation objects by agreement between them.

#### **Article 405. Taxation objects**

Dwellings, buildings, dacha structures, garages and other buildings, structures, offices situated in the territory of the Republic of Kazakhstan, held in accordance with ownership rights and objects of construction in progress, shall be taxation objects for the tax on property of individuals, from the time of habitation, use.

**Footnote. Article 405 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2010).**

#### **Article 406. Tax base**

1. The tax base in respect of dwellings, dacha constructions or objects of construction in progress for individuals shall be the value of taxation objects that is established as on the 1st January of each year by the authorized state body in the sphere of registration of rights to real estate, to be computed in accordance with the following procedure:

$C = C_b \times S \times K_{phys} \times K_{func} \times K_{zon} \times K_{mes.mai}$ , where:



C - value of property for taxation purposes,  
 C<sub>b</sub> - basic value of one square meter of dwelling, dacha or construction in progress,  
 S - useful area of dwelling, dacha or an object of construction in progress in square meters,

K<sub>phys</sub> - coefficient of physical depreciation,

K<sub>func</sub> - coefficient of functional depreciation,

K<sub>zon</sub> - zoning coefficient,

K<sub>mes.mai</sub> - coefficient of change of the monthly calculation index.

2. The basic value of one square meter of dwelling, dacha or object of construction in progress in the national currency shall be computed in relation to the of the populated area as follows:

No.	Type of populated area	Basic price, tenge
1	2	3
	Cities:	
1.	Almaty	30 000
2.	Astana	30 000
3.	Aktau	18 000
4.	Aktobe	18 000
5.	Atyrau	18 000
6.	Karaganda	18 000
7.	Kyzylorda	18 000
8.	Kokshetau	18 000
9.	Kostanay	18 000
10.	Pavlodar	18 000
11.	Petropavlovsk	18 000
12.	Taldykorgan	18 000
13.	Taraz	18 000
14.	Uralsk	18 000
15.	Ust-Kamenogorsk	18 000
16.	Shymkent	18 000
17.	Cities of province status	12 000
18.	Towns of district status	6 000
19.	Settlements	4 200
20.	Villages (auls)	2 700

3. The tax base for a cold annex, accessory (ancillary) annex, semi-basement, basement of a residential building, garage shall be the price of such object to be computed on the 1st January of each year by the authorized state body in the sphere of registration of real estate rights, in accordance with the following formula:  $C = C \times S \times K_{phys} \times K_{func} \times K_{zon} \times K_{mes.mai}$ , where:

C - value for taxation purposes,

C<sub>b</sub> - basic value of one square meter, determined as follows on the basis of the basic value established in paragraph 2 of this Article: in the case of a cold annex, accessory (ancillary) annex, semi-basement, basement of a dwelling - 25 percent, in the case of a garage - 15 percent;

S - useful area of a cold annex, accessory (ancillary) annex, semi basement, basement of a dwelling, garage, in square meters; K<sub>phys</sub> - coefficient of physical depreciation, computed in accordance with paragraph 4 of this Article;

K - coefficient of change of the monthly calculation index, defined in accordance with the procedure established by paragraph 7 of this Article;

K<sub>zon</sub> - zoning coefficient, determined in accordance with the procedure established by paragraph 6 of this Article.

4. The coefficient of physical depreciation of dwelling, dacha structures or an object of construction in progress, shall be computed by using depreciation rates and effective age in accordance with the following formula:  $K_{phys} = 1 - I_{phys}$ , where:

I<sub>phys</sub> - physical depreciation of dwelling, dacha or object of construction in progress. Physical depreciation shall be computed in accordance with the following formula:

$I_{phys} = (T_{bas} - T_{int}) \cdot \text{Hamort} / 100$ , where:

T<sub>bas</sub> - year of assessment of tax, T<sub>int</sub> - year of putting object into operation, Hamort - depreciation rate.

In relation to parameters of a building, the following depreciation rates shall be used when determining physical depreciation:

No.	Capital group	Description of building	Hamort, %	Useful life
1	2	3	4	5
1.	1	Buildings of stone, especially capital, brick walls more than 2.5 bricks thick or bricks with iron-concrete or metal re-enforcement, floors of with iron-concrete and concrete; buildings with large panel walls, floors of iron-concrete	0,7	143
2.	2	Buildings with brick walls 1,5-2.5 bricks thick, floors of metal-concrete, concrete or wood;		125

		buildings with large-module walls, floors of metal-concrete	0,8	
3.	3	Buildings with light masonry of bricks, monolith slag-concrete, light slag-concrete, coquina, floors of metal-concrete or concrete; buildings with large module walls or light masonry of bricks, monolith slag-concrete, small slag-blocks	1,0	100
4.	4	Buildings with mixed walls, of logs, of planks	2,0	50
5.	5	Buildings of adobe, frame-wooden panels, earth filled frame, cob-work, beaten cob-work	3,3	30
6.	6	Cane fibre-board buildings and other light structures	6,6	15

percent, of other materials - 65 per cent, then the coefficient of physical depreciation is assumed to be equal to 0.2.

5. Coefficient of functional depreciation ( $K_{func}$ ), accounting for changes in requirements to the quality of dwelling, dacha or objects of construction in progress, shall be computed in accordance with the following formula:  $K = K_{sto} \times K_{cor} \times K_{mat} \times K_{con} \times K_{heat}$ , where:

$K_{sto}$  - coefficient accounting for changes in the basic price in relation to the storey

where dwelling or object of construction in progress is located,

$K_{cor}$  - coefficient accounting for location of dwelling or object of construction in progress in corner parts of a building,

$K_{mat}$  - coefficient accounting for wall material,

$K_{con}$  - coefficient accounting for level of conveniences of dwelling, dacha or object of construction in progress and its technical and engineering infrastructure,

$K_{heat}$  - coefficient accounting for heating.

The following adjustment coefficients shall be used in relation to number of storeys

:

No.	Storey	Ksto
1	2	3
1.	Ground storey	0,95
2.	Intermediate or detached residential house	1,00
3.	Last	0,9

For multi-apartment residential buildings which are not more than three storeys, for any storey the coefficient of number of storeys shall be equal to 1.

In relation to location of a dwelling or an object of construction in progress in corner areas of a building, the following adjustment coefficients shall be used (Kcor):

No.	Location of housing or object of construction in progress in corner parts of a building	Kcor
1	2	3
1.	Corner	0,95
2.	Not corner or detached residential house	1,0

In relation to wall materials, the following adjustment coefficients shall be used (Kmat.co):

No.	Wall materials	Coefficient
1	2	3
1.	Of bricks	1,1
2.	Frame construction of keramsit-concrete blocks	1,0
3.	Frame construction of keramsit-concrete blocks, brick facing	1,05
4.	Metal-concrete panels	1,0
5.	Of metal-concrete panels, brick facing	1,05
6.	Adobe-cobwork	0,5
7.	Adobe, 0.5 brick facing	0,6
8.	Cast slag concrete	0,7
9.	Of metal concrete blocks	1,0
10.	Of prefabricated panels	0,6
11.	Of prefabricated panels, 0.5 brick facing	0,75
12.	Of logs	0,85
13.	Of rail-way ties	0,75

14.	Of rail-way ties, brick facing	0,95
15.	Framed reed fibre mats	0,6

Where dwelling, dacha or an object of construction in progress has all appropriate engineering systems and technical facilities, the adjustment coefficient (Kcon) shall be assumed to be equal to 1.

Where there are no engineering systems and technical facilities creating standard or comfortable conditions for housing (household), presence of people (running water, sewerage, others of conveniences), Kcon shall be assumed to be equal 0.8. In relation to the of heating the following adjustment coefficients of heating (Kheat) shall be used:

No.	Type of heating	Kheat
1	2	3
1.	Central heating	1,0
2.	Local heating by gas or mazout	0,98
3.	Local hot-water heating by solid fuel	0,95
4.	Furnace heating	0,9

6. The zoning coefficient (Kzon), accounting for location of taxation objects in a populated area, shall be established by the authorized state body in the sphere of registration of real estate rights, in coordination with the local executive authority in accordance with the zoning coefficient accounting method.

The zoning coefficient accounting method affirms by official in registration of real estate rights.

7. Coefficient of changes in the monthly calculation index (Kmes.mai) shall be computed by using the following formula:

$K_{mes.mai} = mai_{cur\ y} / mai_{prev\ y}$ , where:

mai cur y - monthly calculation index, established by the law on Republican budget and effective as of 1 January of corresponding financial year,

mai prev y - monthly calculation index, established by the law on Republican budget and effective as of 1 January of previous financial year.

8. Where a cold annex, accessory (ancillary) structure, semi-basement, basement of a residential building, garage are a part of dwelling or an object of construction in progress, the tax base shall be computed as aggregate value of such taxation objects, to be determined by the authorized state body in the sphere of registration of real estate rights in accordance with this Article.

9. Where one individual is a payer of tax on several taxation objects, the tax base shall be computed by the authorized state body in the sphere of registration of real estate rights, separately for each object.

Footnote. Article 406 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 25.03.2011 No. 421-IV (shall be enforced upon the expiry of ten days after its first official publication); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2010); dated 27.04.2012 No. 15-IV (shall be enforced upon the expiry of ten days after its first official publication).

#### **Article 407. Assessment and payment of tax in certain cases**

For owned buildings (parts of buildings), except for the facilities provided for by Article 396 paragraph 1 of this Code, and facilities a taxable income for which shall be assessed in accordance with Article 406 of this Code, individuals (including private notaries, private enforcement agents, lawyers) shall assess and pay tax on property and submit the tax accounts on this tax in accordance with the procedure established by Chapter 57 of this Code for individual entrepreneurs applying a special patent-based tax regime with application of the rate set forth by Article 398 paragraph 2 of this Code

The taxable income for such buildings (parts of buildings) shall be determined in accordance with Article 397 paragraph 4 of this Code.

Footnote. Article 407 is in the wording of the law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2011).

#### **Article 408. Tax rates**

Tax on property of individuals, for whom the tax base is computed in accordance with Article 406 of this Code, shall be assessed in relation to the value of taxation objects by using the following rates:

1	2	3
1.	up to 1 000 000 tenge inclusive	0,05 per cent of the value of taxation objects
2.	over 1 000 000 tenge to 2 000 000 tenge inclusive	500 tenge + 0,08 per cent of the amount that exceeds 1 000 000 tenge
3.	over 2 000 000 tenge to 3 000 000 tenge inclusive	1 300 tenge + 0,1 per cent of the amount that exceeds 2 000 000 tenge
4.	over 3 000 000 tenge to 4 000 000 tenge inclusive	2 300 tenge + 0,15 per cent of the amount that exceeds 3 000 000 tenge
5.	over 4 000 000 tenge to 5 000 000 tenge inclusive	3 800 tenge + 0,2 per cent of the amount that exceeds 4 000 000 tenge
6.	over 5 000 000 tenge to 6 000 000 tenge inclusive	5 800 tenge + 0,25 per cent of the amount that exceeds 5 000 000 tenge
7.	over 6 000 000 tenge to 7 000 000 tenge inclusive	8 300 tenge + 0,3 per cent of the amount that exceeds 6 000 000 tenge

8.	over 7 000 000 tenge to 8 000 000 tenge inclusive	11 300 tenge + 0,35 per cent of the amount that exceeds 7 000 000 tenge
9.	over 8 000 000 tenge to 9 000 000 tenge inclusive	14 800 tenge + 0,4 per cent of the amount that exceeds 8 000 000 tenge
10.	over 9 000 000 tenge to 10 000 000 tenge inclusive	18 800 tenge + 0,45 per cent of the amount that exceeds 9 000 000 tenge
11.	over 10 000 000 tenge to 50 000 000 tenge inclusive	23 300 tenge + 0,5 per cent of the amount that exceeds 10 000 000 tenge
12.	over 50 000 000 tenge to 120 000 000 tenge inclusive	223 300 tenge + 0,75 per cent of the amount that exceeds 50 000 000 tenge
13.	over 120 000 000 tenge	748 300 tenge + 1 per cent of the amount that exceeds 120 000 000 tenge

#### **Article 409. The procedure for the assessment and payment of the tax**

1. The assessment of tax in respect of taxation objects of individuals shall be made by the tax authorities not later than on the 1st August of the tax period in the place of location of taxation objects irrespective of the place of residence of taxpayers by the application of appropriate tax rates to the tax base.

2. Where taxation objects are held on the right of ownership less than twelve months within the tax period, property tax payable shall be assessed by dividing the tax amount determined in accordance with paragraph 1 of this Article by twelve and by multiplying by the number of months within which taxation objects are held on the right of ownership.

3. For taxation objects which are in joined shared ownership of several individuals tax shall be assessed proportionally to their share in said property.

4. Where one individual is a payer of tax in respect of several taxation objects, the assessment of tax shall be made by each taxation object separately.

5. In case of destruction, breakdown, demolition of taxation objects, the re-assessment of the tax amount shall be performed where documents confirming the fact of destruction, breakdown, demolition are present that are issued by the authorized body.

6. Where the taxpayer has emerged the right to be exempt from payment of tax within the tax period, the re-assessment of the tax amount shall be made from the first day of the month in which this right emerged.

7. The payment of tax shall be effected to the budget in the place of location of taxation objects not later than on the 1st October of the current tax period.

8. Where rights of ownership of taxation objects are transferred within the tax period, the amount of tax shall be assessed for the actual period of exercising rights of ownership of property.

The tax amount payable for the actual period of possession of the taxation object by the person who transfers the rights of ownership must be paid to the budget before or at the time of state registration of rights of ownership. In this case the primary payer shall be presented the tax amount assessed from the 1st January of the current year to the beginning of the month in which this payer transfers the right of ownership. The next payer in the notice of the assessed amount of property tax that is delivered by the tax authority, shall be presented the tax amount assessed for the period from the beginning of the month in which this payer has emerged the right of ownership.

The annual tax amount may be paid to the budget by either of the parties (by agreement) during the state registration of rights of ownership of the taxation object. Subsequently, said tax amounts shall not be paid repeatedly.

9. Where at the time of state registration (except for initial registration) of rights to real estate the value of taxation objects is not determined by the authorized state body, tax shall be paid basing on the tax amount assessed in the previous tax period.

**Footnote. Article 409 as amended by the Law of the Republic of Kazakhstan dated 25.03.2011 No. 421-IV (shall be enforced upon the expiry of ten calendar days after its first official publication)**

#### **Article 410. The tax period**

1. The tax period for the assessment and payment of tax on property of individuals shall be determined according to Article 148 of this Code.

2. In case of destruction, breakdown, demolition of taxation objects of individuals the month in which the fact of destruction, breakdown, demolition of taxation objects occurred shall be entered in the tax period.

### **SECTION 16. TAX ON GAMING BUSINESS**

#### **Chapter 59. THE TAX ON GAMING BUSINESS**

#### **Article 411. The payers**

Individual entrepreneurs and legal entities who carry out activities associated with rendering the following services, shall be recognized as payers of the tax on gaming business:

- a) casinos;
- b) game machine rooms;
- c) sweep-stakes;
- d) book-maker's office.



## **Article 412. Taxation objects**

When carrying out activity in the sphere of gaming business, the following shall be recognized as objects that are subject to tax on gaming business:

- 1) game table;
- 2) game machine;
- 3) sweep-stake jack-pot;
- 4) electronic sweep-stake jack-pot;
- 5) book-maker's jack-pot;
- 6) electronic book-maker's jack-pot.

## **Article 413. Rates of the tax**

1. The rate of the tax on gaming business per one taxation object shall be as follows :

- 1) game table - 830-times monthly calculation index {~} per month;
- 2) game machine - 30-times monthly calculation index {~} per month;
- 3) sweep-stake jack-pot - 125-times monthly calculation index {~} per month;
- 4) electronic sweep-stake jack-pot - 125-times monthly calculation index {~} per month;
- 5) book-maker's jack-pot - 75-times monthly calculation index {~} per month;
- 6) electronic book-maker's jack-pot - 75-times monthly calculation index {~} per month.

2. Tax rates established in par 1 of this Article shall be determined based on the size of the monthly calculation index established by the law on the Republican Budget and effective as of the first day of the tax period.

**Footnote. Article 413 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

## **Article 414. The tax period**

Calendar quarter shall be recognized as tax period for the tax on gaming business.

## **Article 415. The procedure for the assessment and time for payment of the tax**

1. The assessment of the tax on gaming business shall be carried out by way of applying the proper rate of the tax to each taxation object as defined in Article 412 of this Code, unless otherwise specified in paragraph 2 of this Article.

2. When taxation objects are put into operation prior to the 15th day of a month inclusive, the tax on gaming business shall be computed in accordance with the established rate, after the 15th day, - in an amount of 1/2 of the established rate.

In the case of disposal of taxation objects prior to the 15th day of a month, the tax on gaming business shall be computed in an amount of 1/2 of the established rate, after the 15th day - in accordance with the established rate.

3. Tax on gaming business shall be subject to payment to the budget in the place of registration of taxation objects not later than the 25th day of the second month, following a reporting tax period.

**Footnote. Article 415 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 416. Additional payment of payers of the tax on gambling business**

1. The additional payment shall be assessed in cases of excess of amounts of income earned from activities in the sphere of gambling business, over the maximum amount of income established by paragraph 2 of this Article.

2. The maximum amount of income for a tax period for the payers of the tax on gambling business shall be as follows:

- 1) from activities of a casino - 135 000-times monthly calculation index;
- 2) from activities of a game machines room - 25 000-times monthly calculation index;
- 3) from activities of a sweep-stake - 2 500-times monthly calculation index;
- 4) from activities of a book-maker's office - 2 000-times monthly calculation index.

3. Maximum size of income established by paragraph 2 of this Article shall be determined based on the size of the monthly calculation index established by the law on the Republican Budget and effective as of the first day of tax period.

4. For the purpose of assessment of an additional payment the positive difference between the income amount received for the tax period as a result of performance of such activity and amount of payments to the participants of a game and/or a bet shall be recognized as income gained from the activity in the area of gambling business.

**Footnote. Article 416 is in the wording of the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2011).**

#### **Article 417. The procedure for the assessment and payment of the additional payment**

1. The additional payment shall be assessed by way of the application to the amount of an excess of the maximum amount of income, of the rate established in paragraph 1 of Article 147 of this Code, and it shall be subject to payment not later than the 25th day of the second month, following a reporting tax period.

2. Where a payer of the tax on gaming business carries on several of activities in the sphere of gaming business, the additional payment shall be assessed separately from income from each of activity in the sphere of the gaming business.

3. When carrying on several of entrepreneurial activity, which are not specified in Article 411 of this Code and not related to the sphere of the game business, payers of the tax on gaming business shall be obliged to keep separate accounting for income and costs relating to said activity and to carry out settlements with the Budget in accordance with the general procedure.

#### **Article 418. Deadlines for the submission of tax declarations**

Declarations of the tax on gaming business shall be submitted not later than the 15th day of the second month following a reporting quarter, to the tax authority in the place of registration as the taxpayer carrying out separate activity.

**Footnote. Article 418 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

### **SECTION 17. THE FIXED TAX**

#### **Chapter 60. THE FIXED TAX**

#### **Article 419. The fundamental definitions used in this Chapter**

The definitions used in this Chapter shall have the following meanings:

- 1) billiards table - special table with pockets (holes in the cushion) or without those, intended for the game of billiards;
- 2) skittle-alley - special run-way, intended for the game of bowling (skittle alley);
- 3) game machine with no prize - special equipment (mechanical, electric, electronic and other technical equipment) which is used for gaming;
- 4) cart - micro-volume racing car without body, differential gear, and wheel suspension spring, having two-stroke engine with the working cylinder capacity up to 250 cu cm and a maximum speed of 150 km per hour.

#### **Article 420. The payers**

Individual entrepreneurs and legal entities who carry on business associated with rendering services with the use of the following, shall be recognized as payers of the fixed tax:

- 1) game machines without a prize;
- 2) personal computers which are used for gaming;
- 3) skittle-alleys (bowling);
- 4) carts (carting);
- 5) billiard tables (billiards).

## Article 421. Objects subject to the fixed tax

The following shall be recognized as objects which are subject to fixed tax:

- 1) game machines without a prize, intended for gaming of one player;
- 2) game machines without a prize, intended for games with the participation of more than one player;
- 3) personal computer which is used for gaming;
- 4) skittle-alley;
- 5) cart;
- 6) billiards table.

## Article 422. The rates of the fixed tax

1. Amounts of the minimum and maximum basic rates of the fixed tax per taxable object, per month, shall be as follows:

No.	Description of Taxation objects	Minimum Amounts of Basic Rates of Fixed Tax (Monthly calculation Indices)	Maximum Amounts of Basic Rates of Fixed Tax (Monthly calculation Indices)
1	2	3	4
1.	Game machine without a prize, intended for gaming of one player	1	12
2.	Game machine without a prize, intended for games with the participation of more than one player	1	18
3.	Personal computer which is used for playing games	1	4
4.	Skittle-Alley	5	83
5.	Cart	2	12
6.	Billiards table	3	25

1-1. Rate of the tax shall be determined based on amount of monthly basic rate, established by the Law on the republican budget and effective as of 1st day of the tax period.

2. The local representative authorities, within the approved brackets of the basic rates, shall establish unified rates of the fixed tax for all taxpayers who carry on business in the territory of one administrative-territorial unit.

**Footnote. Article 422 as amended by the law of the Republic of Kazakhstan dated 12.02.2009 N 133-IV (the order of enforcement see Article 2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

### **Article 423. The tax period**

Calendar quarter shall be recognized as tax period for the fixed tax rate.

### **Article 424. The procedure for the assessment and deadlines for payment of the fixed tax**

1. The assessment of the fixed tax shall be carried out by way of applying appropriate rates of the tax to each taxation object as defined in Article 421 of this Code, unless otherwise specified by paragraph 2 of this Article.

2. Where taxation objects are put into operation prior to the 15th day of a month, the fixed tax shall be computed in accordance with the established rate, after the 15th day, - in an amount of 1/2 of the established rate.

In the case of disposal of taxation objects prior to the 15th day of a month, the fixed tax shall be computed in the amount of 1/2 of the established rate, after the 15th day - in accordance with the established rate.

3. Fixed tax shall be paid to the Budget in the place of registration of taxation objects not later than the 25th day of the second month, following a reporting tax period.

4. In the case of performing others of entrepreneurial activity, which are not specified in Article 420 of this Code, the payers of the fixed tax shall be obliged to keep separate accounting of income and costs relating to suchs of business and to carry out settlements with the budget in accordance with the general procedure.

**Footnote. Article 424 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

### **Article 425. Deadlines for the submission of tax declarations**

Fixed tax declarations shall be submitted not later than the 15th day of the second month, following a reporting quarter, to the tax authority in the place of registration as the taxpayer carrying out separates of activity.

**Footnote. Article 425 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010);**

## **SECTION 18.**

### **SPECIAL TAX REGIMES**

### **Article 426. Thes of special tax regimes**

1.Special tax regimes shall be subdivided into the followings:

**Note of the RCLI!**

**This version of paragraph 1) is valid until 01.01.2013 in accordance with the Law**

of the Republic of Kazakhstan No. 100-IV (for the suspended version see an archived version No. 7 of the Tax Code of the Republic of Kazakhstan).

- 1) special tax regime for small businesses comprising the following:
  - special tax regime on the basis of the one-off coupon;
  - special tax regime on the basis of a patent;
  - special tax regime on the basis of a simplified declaration;
- 2) special tax regime for peasant or farmer holdings;
- 3) special tax regime for legal entities who are producers of agricultural products, aquacultural (fishery) products and rural consumer cooperatives.

A taxpayer shall have the right to select the general procedure or a special tax regime in the cases and in accordance with the procedure as established by this part.

For the purposes of applying this part, the general procedure shall be understood as procedure for the assessment, payment of taxes and other obligatory payments to the budget, submission of tax reports on them, as established by the Special part of this Code, except for the procedure established by this part.

2. A patent is a document confirming the fact of settlement with the budget in respect of personal income tax, except for personal income tax which is withheld at source of payment, and in respect of social tax.

3. The form of a patent shall be established by the authorised body.

4. In the case of a loss of a patent, a duplicate shall be issued pursuant to an application of the taxpayer.

5. Patents (duplicate patents) shall be issued to a taxpayer by the tax authorities against signature in the book of documentation.

6. For the purposes of taxation of persons who enjoy special tax regimes, a separate territorial unit of a taxpayer in whose place of location the stationary work stations are organized, which perform part of the taxpayer's functions, shall be recognized other separate structural subdivisions of the taxpayer. A work station shall be recognized as stationary work station if it is created for a period longer than one month.

7. The taxpayers enjoying special tax regime for peasant farms or farmer holdings, legal entities who are producers of agricultural produce, rural consumer cooperatives, for the activity to which such regimes apply shall not be entitled to settle accounts with the budget in special tax regime for small business entities.

Footnote. Article 426 as amended by the law of the Republic of Kazakhstan dated 12.02.2009 N 133-IV (the order of enforcement see Article 2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 21.01. 2010 No. 242-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

## **Chapter 61. THE SPECIAL TAX REGIME FOR SMALL BUSINESS ENTITIES**

### **§ 1. General provisions**

#### **Article 427. General provisions**

1. For the purposes of this Code, individual entrepreneurs and legal entities who meet the requirements established by Article 428, 429, 433 of this Code, shall be recognized as small business entities.

2. A special tax regime shall establish a simplified procedure for the assessment and payment of social tax, corporate or personal income tax, except for taxes which are withheld at source of payment for small business entities. The assessment, payment and presentation of tax reports on taxes and other obligatory payments to the budget, which are not specified in this paragraph, shall be carried out in accordance with the general procedure.

3. Income for a tax period comprising all of income received (receivable) in the territory of the Republic of Kazakhstan and beyond its boundaries, shall be taxation object for the taxpayers who apply special tax regimes on the basis of a patent or simplified declaration.

Income shall comprise all of income as specified in sub-paragraphs 1), 3) - 9), 13) - 24) of paragraph 1 of Article 85 of this Code, as assessed in accordance with this Code.

The assessment and payment of corporate or personal income tax and submission of tax reports on them, in relation to income specified in sub-paragraphs 2), 10) of paragraph 1 of Article 85, sub-paragraphs 1), 4) of Article 177 of this Code, shall be carried out in accordance with the general procedure.

**Footnote. Article 427 as amended by the law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 428. Requirements for the application of a special tax regime**

##### **Note of the RCLII!**

**This wording of paragraph 1 is valid until 01.01.2013, in accordance with the Law of the Republic of Kazakhstan 100-IV (for the suspended version see an archived version No. 7 of the Tax Code of the Republic of Kazakhstan).**

Unless otherwise provided in this Article, taxpayer have the right independently to select only one of the following procedures for the assessment and payment of taxes, and also for the submission of tax reports on them:

- 1) general procedure;
- 2) special tax regime on the basis of the one-off coupon;
- 3) special tax regime on the basis of a patent;



4) special tax regime on the basis of a simplified declaration.

The individuals specified in paragraph 1 of the Article 36 of this Code registered as individual entrepreneurs shall have right independently choose only one of the below mentioned orders of taxes calculation and payment, as well as submission of tax reports on them:

- 1) special tax regime on the basis of the one-off coupon;
- 2) special tax regime on the basis of a patent;
- 3) special tax regime on the basis of a simplified declaration.

2. In the case of transition to the general procedure, subsequent transition to a special tax regime shall be allowed not sooner than after two calendar years of using the general procedure.

3. The following shall not be allowed to use a special tax regime:

- 1) legal entities having affiliates, representations;
- 2) affiliates, representations of legal entities;
- 3) taxpayers having other separate structural units and (or) taxation objects in different populated areas;
- 4) legal entities in which the share participation of other legal entities is more than 25 percent;
- 5) legal entities whose foundation party is a foundation party of another legal entity , using a special tax regime.

Provisions of sub-paragraph 3) of this paragraph shall not apply to taxpayers who carry on business of leasing assets.

4. A special tax regime shall not apply to the followings of activity:

- 1) manufacture of excisable goods;
- 2) storage and wholesale trade of excisable goods;
- 3) sale of certains of petrochemical products - petrol, diesel fuel and oil residue;
- 4) arrangement and conducting of lotteries (except for state (national) lotteries);
- 5) subsurface use;
- 6) collection and acceptance of glass containers;
- 7) collection (preparation), storage, processing and sale of scrap metals and non-ferrous and ferrous waste metals;
- 8) consulting services;
- 9) activities in the sphere of accounting or audit;
- 10) financial, insurance activity and agency business of an insurance broker and insurance agent;
- 11) activities in the sphere of law and justice.

**Footnote. Article 428 as amended by the law of the Republic of Kazakhstan dated 30.12.2009 N 234-IV (shall be enforced from 01.01.2010); dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 15.07.2010 No. 338-IV (the order of**



enforcement see Article 2); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

## **§ 2. The special tax regime on the basis of a patent**

### **Article 429. General provisions**

The special tax regime on the basis of a patent shall be used by individual entrepreneurs who comply with the following requirements:

- 1) do not use employed manpower;
- 2) carry on business in the form of personal entrepreneurship;
- 3) income of whom in a tax period does not exceed 200-times minimum monthly wage as established by the Law on Republican budget and effective as of 1 January of the relevant financial year.

**Footnote. Article 429 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

### **Article 430. Tax period**

A calendar year shall be a tax period.

### **Article 431. Requirements for the application**

1. In order to apply a special tax regime on the basis of a patent, an individual entrepreneur prior to applying it shall submit a tax application to the tax authority in the place of location.

Newly-formed individual entrepreneurs shall submit said application not later than ten calendar days from the date of the state registration as individual entrepreneurs.

The date of the state registration as individual entrepreneur shall be recognized the date of beginning using the special tax regime for said individual entrepreneurs.

Failure of an individual entrepreneur to file a tax application within time specified in this paragraph, shall be recognized as his approval to make settlements with the budget in accordance with the established procedure. In order to obtain a special tax regime on the basis of a patent, assessments shall be filed (henceforth -for the purposes of applying the Chapter - Assessment) in accordance with the form established by the Government of the Republic of Kazakhstan.

Documents confirming payment to the budget of the price of a patent, social assessments, transfer of pension contributions, shall be attached to an Assessment.

Taxpayers who submit assessments in an electronic form, shall not submit said documents. Assessments for obtaining the regular patent shall be filed prior to expiry of the validity period of the tax application for the use of the special tax regime on the basis of a patent.

2. Within one working day after filing an assessment and documents to be attached to an assessment, the tax authorities shall carry out issuing of a patent or pass a decision to deny issuing a patent in accordance with the form established by the Government of the Republic of Kazakhstan. A decision shall be formulated in two copies, of which one shall be handed over to the taxpayer with the receipt of signature.

Non-compliance of a taxpayer with the requirements specified in Articles 428, 429 of this Code, shall be recognized as reason for denying issuing of a patent.

A patent shall be issued to an individual entrepreneur for a period not less than one month within the limits of one tax period, unless otherwise is provided for by this paragraph.

A patent may be issued for a period less than one month to an individual entrepreneur:

- 1) newly registered in the last month of the current tax period;
- 2) who has resumed its operation before or after the period of temporary suspension of the operation in the last month of the current tax period.

A patent shall be invalid without presenting a certificate on state registration of the individual entrepreneur.

3. In the case of a temporary suspension of entrepreneurial activity when applying a special tax regime on the basis of a patent, the individual entrepreneur shall submit a tax application to the tax authority in the place of location, in accordance with the procedure established by Article 74 of this Code.

4. Termination of application of a special tax regime on the basis of a patent shall be carried out on the basis of a tax application or pursuant to a decision of the tax authority in the cases specified in paragraph 7 of this Article.

5. In the case of voluntary termination of applying a special tax regime on the basis of a patent, a tax application shall be submitted prior to expiry of the validity term the patent.

At that:

1) the last date of validity of the patent shall be considered as the date of termination of a special tax regime;

2) the date of starting to apply generally established order, or other special tax regime, chosen by the taxpayer, will be the date following the date of expiry of the patent.

6. In cases of emergence of conditions which do not allow applying a special tax regime on the basis of a patent, an individual entrepreneur shall be obliged as follows:

1) within five working days from the moment of non-compliance with the requirements, to file the following:

tax application for termination of application of a special tax regime;

additional assessment with regard to amount in excess, where actual income exceeds the amount of income which is established by sub-paragraph 3) of Article 429 of this Code;

2) switch to the general procedure or another special tax regime in accordance with the procedure established by this Code, from the month following a month in which such conditions emerged.

7. The tax authority when establishing facts of non-compliance of a taxpayer with the requirements prescribed by Articles 428 and 429 of this Code shall shift this taxpayer to general order from the month following a month in which non-compliance emerged.

In the case of revealing such discrepancies during the desk audit the tax authorities before shifting a taxpayer to general order, shall send a taxpayer a notice on elimination of violations, identified by tax service bodies by the results of the desk audit, in accordance with the terms and procedure established by Articles 607 and 608 of this Code.

8. In cases indicated in pars 6 and 7 of this Article:

1) The last day of the month in which such non-compliance emerged shall be considered as the date of termination of special tax regime;

2) The first day of the month following the month in which such non-compliance emerged shall be considered as the starting date of application of general procedure.

**Footnote. Article 431 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).**

#### **Article 432. Calculation of the price of a patent**

1. Calculation of the price of a patent shall be carried out by way of applying a rate of 2 per cent to taxation object. The price of a patent shall be paid to the budget as follows:

1) in the form of personal income tax - in an amount of - of the patent price;

2) in the form of social tax - in amount of - of the patent price, less social assessments computed in accordance with the law of the Republic of Kazakhstan "On Obligatory Social Insurance". In the case of excess of total social assessments over total social tax, total social tax becomes equal to zero.

2. Where actual income during the validity period of a patent exceeds amounts of income specified in the assessment, individual entrepreneur shall be obliged within five working days to file an additional assessment on the amount of excess and to make payment of taxes on that amount. On the basis of said assessment, a new patent shall be issued instead of the previous one.

3. Where during a validity period, actual income does not attain the amount of income specified in the assessment, the individual entrepreneur shall have the right to present an additional assessment on an amount of excess. In such case, refund of excess amounts of tax shall be carried out in accordance with the procedure established by Article 602 of this Code, after a chronometrical inspection to be carried out by the tax authority.

4. In cases of excess of amounts of actually received income over amounts of maximum income as established by Article 429 of this Code, until the validity term of the patent expires, the price of the patent until the date of transition to another taxation regime in the cases specified by paragraphs 6 and 7 of Article 431 of this Code, shall be computed in accordance with the rate established by paragraph 1 of this Article.

5. When terminating entrepreneurial activity prior to expiry of the validity period of the patent, paid amount of taxes shall not be subject to refund and re-assessment, except for the case of recognizing an individual entrepreneur as incapable.

### **§ 3. The special tax regime on the basis of a simplified declaration**

#### **Article 433. General provisions**

The special tax regime on the basis of a simplified declaration shall be used by small businesses that comply with the following requirements:

1) in the case of individual entrepreneurs:

maximum average payroll number of employees for a tax period is twenty-five persons, including the individual entrepreneur himself;

maximum income for a tax period is 10 000,0 thousand tenge;

2) in the case of legal entities:

maximum average payroll number of employees for a tax period is fifty persons;

maximum income for a tax period is 25 000,0 thousand tenge.

#### **Article 434. Tax period**

A calendar quarter shall be recognized as a tax period.

#### **Article 435. Application conditions**

1. For the application of the special tax regime on the basis of a simplified declaration when transferring from other regimes of taxation, the taxpayer shall submit a tax application prior to the beginning of a tax period, to the tax authority in the place of location, unless otherwise specified by this paragraph.

The date of application of a special tax regime will be the first day of the tax period following the date of submission of the tax application. Newly-formed individual entrepreneurs shall submit tax applications for application of the special tax regime on

the basis of a simplified declaration not later than ten working days from the date of the state registration as an individual entrepreneur.

Newly-formed legal entities shall file tax applications for the use of the special tax regime on the basis of a simplified declaration to the tax authority not later than twenty working days after the state registration of a legal entity by the justice authorities. Date of the state registration of a legal entity or an individual entrepreneur shall be recognized as the date of beginning the application of the special tax regime for said taxpayers. For transition to special tax regime on the basis of simplified declaration from special tax regime on the basis of patent taxpayer shall submit a tax application:

Not later than ten calendar days from the date of non-compliance with terms of application of special tax regime on the basis of patent emerged;

In other cases - till the end of validity of patent. The date of application of a special tax regime on the basis of simplified declaration will be:

the first day of the month following the month in which non-compliance with terms of application of special tax regime on the basis of patent emerged;

In other cases - the first day after the end of validity of patent. Non-submission of tax application within the timelines indicated in this paragraph by a taxpayer shall be considered as his consent to carry out settlements with budget in generally established order.

2. The tax authority within three working days from the date of presentation by the taxpayer of the tax application shall pass a decision on applying a special tax regime or on denial of applying a special tax regime, in accordance with the form established by the authorized body. A decision shall be formulated in two copies.

One copy shall be handed to the taxpayer with the receipt of signature or sent by mail with registered mail with notification in the case of the taxpayer's failure to appear before the tax authority in order to receive a decision within ten calendar days from the date of the tax authority taking a decision.

A decision sent by mail with registered mail with notification shall be deemed to be delivered to the taxpayer from the date of the confirmation by the taxpayer in the notification of the postal communications or another communications organization. Non-compliance of a taxpayer with the requirements specified in Articles 428 and 433 of this Code, shall be recognized as reason for denial of application of special tax regime.

3. Termination of application of a special tax regime on the basis of a simplified declaration, shall be carried out on the basis of a tax application or pursuant to a decision of the tax authority in the cases specified in paragraph 6 of this Article.

4. If the taxpayer took a decision, voluntarily to terminate the application of the special tax regime on the basis of a simplified declaration, the termination of said

regime shall be carried out by the tax authority from the month following the month in which the tax application was submitted.

At that:

1) The last day of the month in which tax application was submitted shall be considered as the date of termination of special tax regime;

2) The first day of the month following the month in which tax application was submitted shall be considered as the starting date of application of general order.

5. In the case of non-compliance with the requirements established by Articles 428 and 433 of this Code, a tax application shall be presented within ten calendar days from the time of emergence of non-compliance. Termination of a special tax regime in said case shall be carried out beginning from the month following a month in which non-compliance emerged.

6. The tax authority when establishing facts of non-compliance of a taxpayer with the requirements prescribed by Articles 428 and 433 of this Code shall shift this taxpayer to general order from the month following a month in which non-compliance emerged.

In the case of a revealing such discrepancies during the desk audit, the tax authorities before shifting a taxpayer to general order, shall send a taxpayer a notice concerning elimination of violations, identified by tax service bodies by the results of desk audit, in accordance with the terms and procedure established by Articles 607 and 608 of this Code.

7. In cases indicated in paragraphs 5 and 6 of this Article:

1) The last day of the month in which such non-compliance emerged shall be considered as the date of termination of special tax regime;

2) The first day of the month following the month in which such non-compliance emerged shall be considered as the starting date of application of general order.

**Footnote. Article 435 is in the wording of the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 436. Assessment of taxes in accordance with the simplified declaration**

1. Assessment of taxes on the basis of a simplified declaration shall be carried out by the taxpayer independently by way of applying to a taxation object of the rate in amount of 3 percent for the reporting tax period.

2. Total taxes assessed for a tax period in accordance with paragraph 1 of this Article shall be subject to adjustment towards reduction by amount of 1.5 per cent of total tax per each employee, based upon the average payroll number of employees, where the average monthly wages of employees upon the results of the reporting

period reached not less than 2-times for individual entrepreneurs, not less than 2.5-times for legal entities, minimum wage by the Law on the republican budget and effective as of 1st day of the tax period.

3. In the case of excess during a tax period of amounts of actually received income over total income as established by Article 433 of this Code, the assessment of taxes until the date of the transition (putting) onto the general procedure of taxation or another special tax regime shall be in accordance with the rate established by paragraph 1 of this Article.

4. In the case specified in paragraph 3 of this Article, only total tax assessed on total income as established by Article 433 of this Code, shall be subject to adjustment as specified in paragraph 2 of this Article.

5. Where maximum average payroll personnel number as established by Article 433 of this Code is exceeded, adjustment specified in paragraph 2 of this Article shall be carried out only with regard to the maximum average payroll number.

**Footnote. Article 436 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 437. Deadlines for the submission of a simplified declaration and payment of taxes**

1. A simplified declaration shall be submitted to the tax authority in the place of location of the taxpayer not later than the 15th day of the second month following a reporting tax period.

2. Payment to the budget of taxes assessed in accordance with a simplified declaration, shall be carried out not later than the 25th day of the second month following a reporting tax period, in the form of an personal (corporate) income tax and social tax.

In that respect, personal (corporate) income tax shall be subject to payment in an amount of - of the assessed amount of tax on the basis of a simplified declaration, social tax in an amount of - of the amount of tax assessed on the basis of a simplified declaration, less total social assessments to the State Fund for Social Insurance assessed in accordance with the legislative act of the Republic of Kazakhstan on obligatory social insurance.

In the event that total social assessments to the State Fund for Social Insurance exceed total social tax, total social tax shall be deemed to be equal to zero.

3. A simplified declaration shall show assessed amounts of personal income tax withheld at source of payment, obligatory pension contributions and social assessments

#### **Article 438. Specifics in payment of certain taxes, obligatory pension contributions and social assessments**

Payment of amounts of personal income tax withheld at source of payment, social assessments, transfers of obligatory pension contributions shall be carried out not later than the 25th day of the second month following a reporting tax period.

## **Chapter 62. SPECIAL TAX REGIME FOR PEASANT FARMS OR FARMER HOLDINGS**

### **Article 439. General provisions**

1. Peasant farms and farmer holdings shall have the right independently to select either the special tax regime established by this Chapter, or the general procedure.

2. The special farm farmer holdings provides for a special procedure of settlements with the budget on the basis of payment of the unified land tax and it shall apply to activities of peasant or farmer holdings, related to production of agricultural produce, aquaculture (fishery) products, processing of agricultural produce of own production and its marketing, except for activities associated with production, processing and marketing of excisable goods.

3. The right of use shall be granted to peasant or farmer holdings, provided they have land plots in accordance with private ownership rights and (or) land use rights (including secondary land use rights).

**Footnote. Article 439 as amended by the law of the Republic of Kazakhstan dated 21.01.2011 No. 242-IV (shall be enforced from 01.01.2011); dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

### **Article 440. Tax period**

Calendar year shall be recognized as tax period for unified land tax.

### **Article 441. Application requirements**

1. For applying special tax regime, peasant farms or farmer holdings not later than the 20th February of the first year of applying said regime, shall submit the tax application to the tax authority in the place of location of the land. Failure to submit a tax application by this date shall be recognized as the taxpayer's consent to make settlements with the budget in accordance with the general procedure.

A selected regime of taxation shall not be subject to change for a tax period, unless it is otherwise established by this Article. Copies of the following documents shall be submitted simultaneously with a tax application:

1) title identification documents on land plots, certified by notaries or rural (settlement) executive authorities;



2) reports on determining assessed value of land plots, as issued by the authorized state body for managing land resources, certified by notaries or rural (settlement) executive authorities.

Where there is no report, the assessed value of land plots shall be computed on the basis of the appraisal value of 1 hectare of land on the average for the district in accordance with the information provided by the authorized state body for managing land resources.

Peasant farms or farmer holdings formed after the 20th February, shall submit tax application for the right to apply the special tax regime to the tax authority not later than thirty working days after receiving the certificate on state registration of the individual entrepreneur.

Where land plot right emerged after the 20th February in the territory of another administrative-territorial unit, the peasant farm or farmer holding shall present a tax application for the right to apply the special tax regime to the tax authority within thirty calendar days from the time of registration in the place of location of a given land plot.

Where land plot right emerged after the 20th February to the taxpayer, carrying out activities, not enjoying this special tax regime, a tax application for the right to apply the special tax regime shall be submitted to the tax authority within thirty calendar days from the time of registration in the place of location of a given land plot.

Peasant farms or farmer holdings, applying special tax regime, shall resubmit a tax application and the documents, specified in sub-paragraphs 1) and 2) of part 4 of this paragraph in case of change of data or emergence of the right for other land plots.

2. The tax authority within three working days from the date of submission of a tax application shall pass a decision on applying the special tax regime or denying application of the special tax regime, in accordance with the form established by the authorized body. A decision shall be formulated in two copies. One copy shall be delivered to the taxpayer with the receipt of signature or sent by mail with registered mail with notification in the case of failure of the taxpayer to appear before the tax authority for receiving the decision, within ten calendar days from the date of the tax authority taking such decision.

A decision by mail with registered mail with notification shall be deemed to be handed over to the taxpayer from the date of confirmation by the taxpayer in the notification of the postal or another communications organization. Non-compliance of a taxpayer with the requirements specified in Article 439 of this Code and failure of a taxpayer to present documents as specified in paragraph 1 of this Article, shall be recognized as reason for denying the application of the special tax regime.

3. Termination to apply a special tax regime shall be carried out on the basis of the tax applications in the order prescribed by this paragraph, either by the decision of the tax authority in cases provided for in this Article. In the cases of emergence of

circumstances which do not allow applying the special tax regime, the taxpayer shall submit a tax application to the tax authority within five working days from the time of emergence of non-compliance with the requirements and switch to the general procedure from the month following a month in which non-compliance emerged.

In the case of voluntary termination of application of the special tax regime, the transition to the general procedure shall be carried out from the month following a reporting period on the basis of a tax application of the taxpayer, which shall be submitted not later than the 31st December of the tax period preceding the year of termination of said regime.

A tax authority, upon establishment of non-compliance of the taxpayer with the requirements for the application of said regime on the basis of a decision taken shall notify the taxpayer of putting the taxpayer on the general procedure from the month following a month in which non-compliance emerged.

4. In case of voluntary termination of application of special tax regime transition to generally established order shall be carried out on the basis of tax application of a taxpayer which shall be submitted not later than 31 December of the tax period proceeding the year when generally established order began to apply.

At that:

1) 31 December of the tax period in which tax application was submitted will be considered as the date of termination to apply special tax regime;

2) 1 January of a tax period following a period in which tax application was submitted shall be considered as the date of beginning to apply general established order.

5. In case of conditions not allowing applying special tax regime, taxpayer shall submit tax application to tax authority during five working days from the date of non-compliance with terms emerged and shall shift to generally established order from the month following the month in which such non-compliance emerged.

6. The tax authority when establishing facts of non-compliance of a taxpayer with the requirements prescribed by Articles 439 of this Code shall shift this taxpayer to generally established order from the month following a month in which such non-compliance emerged.

In the case of revealing such discrepancies during the desk audit, the tax authorities before shifting a taxpayer to general order, shall send a taxpayer a notice concerning elimination of violations, identified by tax service bodies by the results of desk audit, in accordance with the terms and procedure established by Articles 607 and 608 of this Code.

7. In cases indicated in paragraphs 5 and 6 of this Article:

1) The last day of the month in which such non-compliance emerged shall be considered as the date of termination of special tax regime;

2) The first day of the month following the month in which such non-compliance emerged shall be considered as the starting date of application of general order.

Footnote. Article 441 is in the wording by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

#### **Article 442. Specifics in applying the special tax regime**

1. Payers of the unified land tax shall not be of the followings of taxes and other obligatory payments to the budget:

1) personal income tax on income from activities of peasant or farmer holdings, including income in the form of amounts received from the state budget to cover costs (expenditures) related to the activity which is subject to this special tax regime;

2) value-added tax - in relation to turnovers from the performance of activity which is subject to this special tax regime;

3) land tax and (or) payment for use of land plots - in relation to land plots which are used in the activity which is subject to this special tax regime;

4) tax on transport vehicles -in relation to taxation objects specified in sub-paragraph 1) of paragraph 4 of Article 394 of this Code.

5) property tax - in respect to objects of taxation specified in sub-paragraph 1) of paragraph 4 of Article 394 of the Code.

2. Assessment, payment of taxes and other obligatory payments to the budget, not specified in paragraph 1 of this Article and submission of tax reports on them, shall be carried out in accordance with the general procedure. Payers of unified land tax shall have the right voluntarily to file a tax application to the tax authority for value-added tax registration.

3. When carrying out activities which are not subject to the special tax regime for peasant or farmer holdings, payers of the uniform land tax shall be obliged to keep separate accounting for income and costs, assets and carry out assessments and payments of appropriate taxes and other obligatory payments to the budget in relation to saids of activity in accordance with the procedure established by this Code.

Footnote. Article 442 as amended by the Law of the Republic of Kazakhstan dated 26.11.2010 No. 356-IV (shall be enforced from 01.01.2011).

#### **Article 443. Taxation object**

Appraisal value of a land plot shall be taxation object for the assessment of uniform land tax.

#### **Article 444. The procedure for the assessment of unified land tax**

1. Assessment of uniform land tax in respect of arable land shall be carried out by way of applying the following rates, on the basis of the total area of land plots, to the aggregate appraisal value of land plots:

No.	Area of land plots (hectare)	Tax rate
1	2	3
1.	up to 500	0,1 %
2.	from 501 to 1 000 inclusive	0.1% of the appraisal value from 500 hectares + 0.2% of the appraisal value from hectares in excess of 500 hectares
3.	from 1 001 to 1 500 inclusive	0.2% of the appraisal value from 1 000 hectares + 0.3% of the appraisal value from hectares in excess of 1 000 hectare
4.	from 1 501 to 3 000 inclusive	0.3% of the appraisal value from 1 500 hectares + 0.4% of the appraisal value of the hectares in excess of 1 500 hectares
5.	in excess of 3 000	0.4% of the appraisal value from 3 000 hectares + 0.5% of the appraisal value of the hectares in excess of 3 000 hectares

The assessment of the uniform land tax on pastures, other natural hay collecting areas and other land plots which are used in activities which are subject to the special tax regime, shall be carried out by way of applying a rate of 0.1% to the aggregate appraisal value of land plots.

2. Peasant or farmer holdings shall assess the uniform land tax for actual periods of using land plots in accordance with land use rights. Appraisal value of a land plot for actual periods of use of the land plot shall be computed by way of dividing the appraisal value of a land plot by twelve and multiplying by a number of months of actual period of using a land plot.

When a peasant or farmer holdings lease land plots to other peasant or farmer holdings, each party shall assess the uniform land tax for the actual period of using the land plot. Assessment of uniform land tax by the lessee shall be carried out from the month following a month of receiving a land plot under a lease. A period of actual use of a land plot by the lessor, when computing the uniform land tax, shall include the month in which the land plot was transferred under a lease.

#### **Article 445. Specifics in assessment of social tax**

Payers of uniform land tax shall monthly assess amounts of social tax at a rate of 20 percent from the monthly calculation index as established by the law on the

Republican budget and which is in effect as of the first day of January of the proper financial year, for each employee, and also for the head and full-age members of a given peasant or farmer holdings. Obligations for full-age members of a peasant or farmer holdings with regard to the assessment and payment of social tax shall arise from the beginning of the calendar year following a year of their reaching the age of majority. Assessed amounts of social tax shall be subject to reduction by amounts of social assessments, assessed in accordance with the Law of the Republic of Kazakhstan "On Obligatory Social Insurance".

Where total social assessments exceed total social tax, total social tax becomes equal to zero.

**Footnote.** Article 445 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2011).

**Article 446. Deadlines for payment of certain taxes and other obligatory payments to the budget, of social assessments and transfers of obligatory pension contributions**

1. Payment of the uniform land tax, social tax, personal income tax withheld at source of payment, levy for the use of water resources from surface sources, levy for discharges into the environment, social assessments, transfers of obligatory pension contributions shall be in accordance with the following procedure:

1) amounts assessed from the 1st January until the 1st October of the tax period, not later than the 10th November of current tax period;

2) amounts assessed from the 1st October until the 31st December of the tax period, not later than the 10th April of the tax period following a reporting tax period.

2. Payment of social tax and personal income tax withheld at source of payment shall be carried out on the basis of the place of location of land plots.

**Article 447. Deadlines for submission of tax reports for payers of the uniform land tax**

**Footnote.** The title of Article 447 is in the wording of the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).

Declarations of payers of the uniform land tax shall show the assessed amounts of uniform land tax, social tax, personal income tax withheld at source of payment, levy for the use of water resources from surface sources, levy for discharges into the environment, obligatory pension contributions and social assessments.

Declarations by payers of the uniform land tax shall be presented not later than the 31st March of the tax period following a reporting tax period, to the tax authorities on the basis of the place of location of land plots.

## **Chapter 63. THE SPECIAL TAX REGIME FOR LEGAL ENTITIES WHO ARE PRODUCERS OF AGRICULTURAL PRODUCTS, AQUACULTURAL (FISHERY) PRODUCTS AND FOR RURAL CONSUMER COOPERATIVES**

**Footnote.** The title of Article 63 as amended by the law of the Republic of Kazakhstan dated 21.01.2010 No. 242-IV (shall be enforced from 01.01.2011).

### **Article 448. General provisions**

1. Legal entities who are producers of agricultural products aquacultural (fishery) products and rural consumer cooperatives, shall have the right independently to select either the special tax regime as established by this Article, or the general procedure.

The special tax regime for legal entities who are producers of agricultural produce, aquacultural (fishery) products and rural consumer cooperatives (henceforth - special tax regime) provides for a special procedure of assessment of corporate income tax, value added tax, social tax, land tax, payment for the use of land plots, property tax, tax on transport vehicles.

The special tax regime shall apply to the following:

1) activities of legal entities who are producers of agricultural produce, aquacultural (fishery) products engaged in the following: production of agricultural produce, aquacultural (fishery) products by using land, processing and marketing said produce of own production;

production of cattle raising products and products of poultry farming (in particular pure line) with full cycle (beginning with growing young), bee keeping, aquacultural (fishery) products, and also processing and marketing said products of own production;

2) activities of rural consumer cooperatives engaged in the following: marketing agricultural produce, aquacultural (fishery) products produced by peasant or farmer holdings who are members (participants) of those cooperatives;

processing of agricultural produce, aquacultural (fishery) products produced by peasant or farmer holdings who are members (participants) of those cooperatives, and marketing produce resulting from processing such produce.

2. For the purpose of this Article the following rural cooperatives shall be recognized as rural consumer cooperatives:

1) those whose members (participants) of those cooperatives are exclusively peasant or farmer holdings;

2) not less than 90 per cent of whose total aggregate annual income is income receivable (received) as a results of activity specified in sub-paragraph 2) of paragraph 1 of this Article.

The aggregate annual income applied for the purposes of this Article shall be determined:

- 1) in accordance with part 4 of this Code without adjustment of the aggregate annual income provided for by Article 99 of this Code;
- 2) for the current tax period to be determined in accordance with Article 148 of this Code.

If according to the results of the year of application of the special taxation regime the conditions established by sub-paragraphs 1) and 2) of the first part of this paragraph have not been complied with, the taxpayer shall be obliged:

- 1) to assess corporate income tax, value-added tax, social tax, tax on property, land tax, tax on vehicles, payment for use of the land plots in accordance with the generally established procedure without application of the provision established by Article 451 of this Code;

- 2) within ten calendar days after the period established for submission of corporate income tax return, to submit additional tax reports on the corporate income tax, value-added tax, social tax, tax on property, land tax, tax on vehicles, payment for use of the land plots in accordance with by Article 70 of this Code for the respective tax periods in accordance with the generally established procedure without application of the provision established by Article 451 of this Code.

3. The following shall not have the right to the special tax regime:

- 1) legal entities that have subsidiary organizations, structural units;
- 2) legal entities that are affiliated persons of other legal entities applying the special tax regime;

**Note of the RCL!**

**Validity of sub-paragraph 3) is suspended until 01.01.2014 (see Article 9-1 of the Law of the Republic of Kazakhstan 10.12.2008 No. 100-IV).**

- 3) legal entities where the participating interest of other legal entities is more than 25 per cent;

**Note of the RCL!**

**Validity of sub-paragraph 4) is suspended until 01.01.2014 (see Article 9-1 of the Law of the Republic of Kazakhstan 10.12.2008 No. 100-IV).**

- 4) a legal entity whose foundation party is at the same time a foundation party of another legal entity who applies the special tax regime;

- 5) rural consumer cooperatives whose members (participants) are members (participants) of other rural consumer cooperatives.

For the purposes of this paragraph, the following shall be recognized as affiliated persons:

1) a legal entity that has the right directly or indirectly determine decisions and (or) exert influence on decision which are taken by the other legal entity, in particular due to an agreement and (or) another transaction;

2) a legal entity whose decisions may be directly or indirectly determined and (or) influence exerted by another legal entity, in particular due to an agreement and (or) another transaction.

4. The special tax regime shall not apply to activities of taxpayers for manufacture, processing and marketing excisable goods. When carrying out activity which are not subject to this special tax regime, the taxpayers shall be obliged to keep separate accounting for income and costs, property and to carry out the assessment and payment of appropriate taxes and other obligatory payments to the budget in respect of said activity in accordance with the procedure established by this Code.

**Footnote. Article 448 as amended by the law of the Republic of Kazakhstan dated 21.01.2010 No. 242-IV (shall be enforced from 01.01.2011); 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 449. Tax period**

Tax period for the assessment of corporate income tax, value-added tax, social tax, land tax, levy for the use of land plots, property tax, tax on transport vehicles, shall be determined in accordance with Articles 148, 269, 363, 370, 392, 401, 482 of this Code.

#### **Article 450. Terms of application**

1. To apply the special tax regime the taxpayer shall submit to the tax authority in the place of location a tax application. The tax application shall be submitted not later than the 10th December of the year preceding the year that is specified in the application for applying the special tax regime.

If the right to the land plot arises after the date stated above before December 31 of the current calendar year, the tax application for the right to apply the special tax regime from the beginning of the calendar year following the current year shall be submitted to the tax authority within thirty calendar days from the date of registration of the land plot at the place of location of the land plot. Failure to submit a tax application by said date, shall be understood as the consent of the taxpayer to carry out settlements with the budget in accordance with the general procedure.

2. A selected taxation regime shall not be changed within a calendar year, except for cases provided for by this Article.

3. Legal entities who are producers of agricultural products, aquacultural (fishery) products, simultaneously with a tax application, shall present copies of entitlement,



identification documents on land plots, certified by notaries or rural (settlement) executive authorities. Said documents shall be presented again when details in them are changed, or when rights to other land plots are acquired.

4. Newly-formed taxpayers for the application of a special tax regime shall file tax applications within thirty calendar days from the date of the state registration by the justice authorities.

5. The legal entities producing agriculture products, aquaculture products (fishery), carrying out the activities to which this special tax regime does not apply, shall submit a tax application for the right to apply the special tax regime in the current calendar year from the date of origination of the right for the land plot to the tax authority within thirty calendar days from the date of registration at the place of location of this land plot in the event of origination of the right to the land plot during the period after January 1 of the current calendar year.

6. The tax authority within three working days from the date of submission of a tax application shall pass a decision for application of the special tax regime or for denial of the application of the special tax regime in accordance with the form established by the authorized body. A decision shall be formulated in two copies.

One copy shall be delivered to the tax payer with the receipt of signature or is sent by mail with registered mail with notification in the case of failure of the taxpayer to appear before the tax authority for receiving a decision within ten calendar days from the date of taking a decision by the tax authority. A decision sent by mail with registered mail with notification shall be deemed to be delivered to the taxpayer from the date of confirmation by the taxpayer in the notification of the postal or another communications organization.

Taxpayer's failure to comply with the provisions specified in Article 448 hereof and to submit the documents specified in this article on dates established by this article shall be the grounds for rejection of applying the special tax regime.

7. In cases of non-compliance with the provisions established by Article 448 hereof, the taxpayer shall submit the tax statement on termination of applying the special tax regime to the tax authority within five business days from the date of emergence of such noncompliance.

8. The tax authority when establishing facts of non-compliance of a taxpayer with the requirements prescribed by Articles 448 of this Code shall shift this taxpayer to generally established order from the month following a month in which such non-compliance emerged.

In the case of a revealing such discrepancies during the desk audit, the tax authorities before shifting a taxpayer to general order, shall send a taxpayer a notice

concerning elimination of violations, identified by tax service bodies by the results of cameral control, in accordance with the terms and procedure established by Articles 607 and 608 of this Code.

9. In cases indicated in paragraph 7 and 8 of this Article:

1) The last day of the month in which such non-compliance emerged shall be considered as the date of termination of special tax regime;

2) The first day of the month following the month in which such non-compliance emerged shall be considered as the starting date of application of general order.

**Footnote.** Article 450 is in the wording of the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); as amended by Laws of the Republic of Kazakhstan dated 21.01.2010 No. 242-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).

#### **Article 451. Specifics in the assessment of certain taxes and levy for the use of land plots**

Amounts of corporate income tax, value-added tax, social tax, land tax, levy for the use of land plots, property tax, tax on transport vehicles, assessed in accordance with the general procedure, shall be reduced by 70 per cent.

Reduction of amounts of corporate income tax as specified in this Article, shall also apply when computing amounts of advance payments of corporate income tax, which are computed in accordance with Article 141 of this Code.

The amount in excess of the value-added tax to be offset over the amount of the assessed tax which has arisen on the basis of the return according to the results of the reporting taxable period, shall be reduced by 70 per cent in determination of the excess VAT amount to be offset towards the forthcoming value-added tax payments.

**Footnote.** Article 451 as amended by the law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).

#### **Article 452. Deadlines for the Payment and Presentation of Tax Reports**

Payment to the budget of taxes and levy for the use of land plots as specified in Article 451 of this Code, and presentation of tax reports on them shall be carried out in accordance with the general procedure.

### **SECTION 19. OTHER OBLIGATORY PAYMENTS**

#### **Chapter 64. REGISTRATION LEVIES**

#### **Article 453. General provisions**

1. The registration levies (hereinafter - levies) shall mean one-time obligatory payments collected by the authorized state bodies when they perform registration

actions as established by Article 455 of this Code, as well as when they issue a duplicate of the document certifying the performance of such registration actions.

2. The authorized state bodies (hereinafter - registering bodies) shall carry out the registration actions in accordance with the procedure and in the cases established by the legislation of the Republic of Kazakhstan.

3. The registering bodies shall, quarterly not later than 20th day of the month following the reporting quarter, submit to the tax authority at the place of their location the information on the payers of the levy and taxable objects according to the form as established by the authorized body, excepting cases as provided for by paragraph 1 of Article 583 of this Code.

#### **Article 454. Payers of the levy**

Payers of the levies shall be physical persons and legal entities in which interests the registering bodies carry out registration actions in accordance with the legislation of the Republic of Kazakhstan.

The structural units may be considered as independent payers of duties in the event that the registration authority takes registration actions in the interests of such structural unit.

**Footnote. Article 451 as amended by the law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).**

#### **Article 455. Taxation object**

The levies shall be collected for the following registration actions:

**Note of the RCLI!**

**In sub-paragraph 1) is allowed an amendment by the Law of the Republic of Kazakhstan dated 18.01.2012 No. 546-IV (shall be enforced from 01.01.2013).**

- 1) state registration (registration accounting) of:
  - legal entities and accounting registration of affiliates and representative offices as well as their re-registration;
  - individual entrepreneurs;
  - real estate rights;
  - pledge of property and mortgage of vessels or vessels under construction;
  - radio-electronic and high-frequency devices;
  - space objects and rights to them;
  - transport vehicles, as well as their re-registration;
  - television and radio channel, periodical publications and information agencies;
  - the rights to works and objects of the related rights, licensing agreements for the use of works and objects of related rights, and also their re-registration;

periodical publications and information agencies;

2) issue of a duplicate document certifying the performance of registration actions indicated in sub-paragraph 1) of this Article.

Footnote. Article 455 as amended by the law of the Republic of Kazakhstan dated 16.07.2009 No. 186-IV (the order of enforcement see Article 2); dated 25.03.2011 No. 421-IV (shall be enforced upon the expiry of ten calendar days after its first official publication); dated 06.01.2012 No. 529-IV (shall be enforced upon the expiry of ten calendar days after its first official publication).

## **Article 456. Rates of levy**

### **Note of the RCL!**

Article 456 provides an amendment by Laws of the Republic of Kazakhstan dated 18.01.2012 No. 546-IV (shall be enforced from 01.01.2013).

The rates of the levies shall be assessed based on the amount of a monthly calculation index as established by the law on the Republican budget (hereinafter - MAI) which is in effect as of the date of payment of levies, and shall be as follows:

No.	Description of registration actions	Rates (MAI)
1	2	3
1.	For state (accounting) registration of legal entities, their affiliates and representative offices as well as their re-registration:	
1.1.	for state registration (re-registration), state registration of termination of activities of legal entities (in particular in cases of reorganization as specified by the Republic of Kazakhstan legislation), accounting registration (reregistration), deregistration of their affiliates and representations of the following:	
1.1.1.	of legal entities, their affiliates and representative offices	6,5
1.1.2.	of legal entities which are small-businesses, their affiliates and representations	2
1.1.3.	of political parties, their affiliates and representative offices	14
1.2.	for state registration (re-registration), state registration of termination of activities (in particular in cases of reorganization as specified by the Republic of Kazakhstan legislation), of institutions which are financed from the funds of the budget, public	

	enterprises and cooperatives of the apartment (housing) owners, accounting registration (re-registration), accounting deregistration of their affiliates and representations as follows:	
1.2.1.	for state registration of termination of activity, accounting registration, deregistration	1
1.2.2.	for re-registration	0,5
1.3.	for state registration (re-registration), state registration of termination of activity (in particular in cases of reorganizations in the cases provided for by the Republic of Kazakhstan legislation) children and youth public organizations, and public associations of the disabled, accounting registration (re-registration), deregistration of their affiliates and representations, affiliates of the Republic's and regional national-and- cultural public associations:	
1.3.1.	for registration (in particular in cases of reorganizations in the cases provided for by the Republic of Kazakhstan legislation)	2
1.3.2.	for state re-registration, state registration in cases of termination of activity (in particular in cases of reorganization in the cases provided for by the Republic of Kazakhstan legislation), deregistration	1
1.4.	<i>excluded by the Law of the Republic of Kazakhstan dated 24.12.2012 № 60-V (shall be enforced upon the expiry of ten calendar days after its first official publication);</i>	
2.	For state registration of individual entrepreneurs:	
2.1.	for registration of individual entrepreneurs	2
2.2.	<i>excluded by the Law of the Republic of Kazakhstan dated 03.07.2013 № 121-V (shall be enforced upon the expiry of ten calendar days after its first official publication);</i>	
3.	For the state registration of the rights to real estate {~}:	
3.1.	for registration of emergence of ownership rights, economic jurisdiction, operating management,	

	and trust management rights, pledge, rent, use (except for servitudes) rights as follows:	
3.1.1.	apartments, individual residential house (with household structures and other similar objects), household structures	0,5 *
3.1.2.	multi-apartment building (with household structures and other similar objects), nonresidential space in a residential house, nonresidential structure	8 *
3.1.3.	for garages	0,5 *
3.1.4.	for going concerns of nonresidential designation (buildings, structures, installations), including as follows:	
3.1.4.1.	one object	10 *
3.1.4.2.	from two up to five separately staying objects	15 *
3.1.4.3.	from six up to ten separately staying objects	20 *
3.1.4.4.	over ten separately staying objects	25 *
3.2.	for entities of small-scale entrepreneurship:	
3.2.1.	for registration of arising of the right of ownership, trust management, pledge, rent, use (except for servitudes) of the apartment building (with household structures and other similar objects), non-residential premises in the residential house, nonresidential structure, going concerns of nonresidential designation (buildings, structures, installations)	1
3.3.	for registration of the right of ownership, land use, other rights (encumbrances on rights) to a land plot	0,5 *
3.4.	for registration of servitude (irrespective of objects	0,5
3.5.	for registration of the object of condominium	1
3.6.	for registration of the issue of mortgage certificate and its subsequent transfer to other owners	0,25 *
3.7.	for registration of changes in the data of the possessor of right,	0,25 *

	identification characteristic of the object of immovable property	
3.8.	for registration of the termination of right to immovable property in connection with the loss (destruction) of immovable property or refusal of the right to it, in other cases not related to the assignment of the right	0,25 *
3.9.	for registration of termination of encumbrance not related to the assignment of the right to a third party, including for the registration of termination of mortgage of immovable property	0,25 *
3.10.	for registration of the assignment of a claim under a bank loan agreement under which the obligations are secured by mortgage	0,25 *
3.11.	for registration of the change of the right or encumbrance of the right as a result of the amendment of the term of the contract which is a basis for arising of the right (encumbrance of the right) or other legal facts	0,25 *
3.12.	for registration of other rights to immovable property and also encumbrances of the rights to immovable property	0,5 *
3.13.	for registration of legal claims	0,25
3.14.	for registration of encumbrance of the right to immovable property imposed (carried out) by state bodies in the procedure as provided for by legislative act of the Republic of Kazakhstan	0
3.15.	for registration of the right to immovable property referred to state property, for the authorized state body which exercises the right of possession, use and disposal of the Republic's property, and its territorial bodies	0
3.16.	for systematic registration of the earlier arisen rights (encumbrances of rights) to immovable property	0
	for registration of the changes in identification characteristics of immovable property on the basis of decisions of state bodies, including in the change of the name of the populated settlements, names of	

3.17.	streets, and also ordinal number of buildings and structures (addresses) or in the change of cadaster numbers in connection with the reforming of administrative-and- territorial structure of the Republic of Kazakhstan	0
3.18.	for the issue of a duplicate entitlement document which certifies the state registration of the rights to immovable property {~}	0,25
4.	For state registration of the pledge of movable property, mortgage of vessels or vessels under construction :	-
4.1.	for state registration of the pledge of movable property, mortgage of vessels or vessels under construction , and also amendments, additions and termination of the registered pledge:	-
4.1.1.	from physical persons	1
4.1.2.	from legal entities	5
4.2.	for the issue of a duplicate document which certifies the state registration of the pledge of movable property, mortgage of vessels or vessels under construction	0,5
5.	<i>excluded by the Law of the Republic of Kazakhstan dated 10.07.2012 № 36-V (shall be enforced from 01.01.2013);</i>	
5.1.		
5.2.		
5.3.		
5.4.		
5.4.1.		
5.4.2.		
6.	For state registration of motor vehicles and also for their re-registration:	
6.1.	for state registration of:	
6.1.1.	mechanical modes of motor vehicles or trailers	0,25
6.1.2.	sea vessels	60
6.1.3.	river vessels	15
6.1.4.	small-size vessels:	
6.1.4.1.	self-propelled small-size vessels with power over 50 horsepower (37 kWt)	3



6.1.4.2.	self-propelled small-size vessels with power up to 50 horsepower (37 kWt)	2
6.1.4.3.	non-self-propelled small-size vessels	1,5
6.1.5.	civil aircraft	7
6.1.6.	space objects and rights to them	14
6.2	for re-registration of:	
6.2.1.	mechanical modes of motor vehicles or trailers	0,25
6.2.2.	sea vessels	30
6.2.3.	river vessels	7,5
6.2.4.	small-size vessels:	
6.2.4.1.	self-propelled small-size vessels with power over 50 horsepower (37 kWt)	1,5
6.2.4.2.	self-propelled small-size vessels with power up to 50 horsepower (37 kWt)	1
6.2.4.3.	non-self-propelled small-size vessels	0,75
6.2.5.	civil aircraft	7
6.3.	for the issue of a duplicate document certifying the state registration of:	
6.3.1.	mechanical mode of motor vehicles or trailers	0,25
6.3.2.	sea vessels	15
6.3.3.	river vessels	3,75
6.3.4.	small-size vessels:	
6.3.4.1.	self-propelled small-size vessels with power over 50 horsepower (37 kWt)	0,75
6.3.4.2.	Self-propelled small-size vessels with power up to 50 horsepower (37 kWt)	0,5
6.3.4.3.	non-self-propelled small-size vessels	0,38
6.3.5.	civil aircraft	3,5
6.3.6.	space objects and rights to them	3,5
7.	For state registration of pharmaceuticals, articles for medical purpose and medical equipment as well as for their re-registration:	
7.1.	for registration of pharmaceuticals, articles of medical purpose and medical equipment	11
7.2.	for re-registration of pharmaceuticals , articles of medical purpose and medical equipment	5

7.3.	for the issue of a duplicate document certifying the state registration	0,7
8.	For state registration of the rights to works and objects of allied rights, licensing agreements on the use of works and objects of allied rights, and also for their re-registration:	
8.1.	for registration of the rights to works and objects of allied rights	3
8.2.	<i>excluded by the Law of the Republic of Kazakhstan dated 10.07.2012 № 36-V (shall be enforced from 01.01.2013);</i>	
8.2.1.		
8.2.2.		
8.3.	for the issue of a duplicate document certifying the state registration	2
9.	for state registration (registration accounting) of television and radio channel, periodical publications and information media as follows:	
9.1.	for children, scientific topics	2
9.2.	of other topics	5
9.3.	for the issuing duplicate documents certifying the state registration:	
9.3.1.	of theme for children, scientific theme	1,6
9.3.2.	of other theme	4

#### Footnote.

\* Rate of the levy for the state registration of real estate rights {~}, which is carried out in accordance with the speedy procedure, shall be established by the Government of the Republic of Kazakhstan.

Footnote. Article 456 as amended by the law of the Republic of Kazakhstan dated 12.02.2009 N 133-IV (the order of enforcement see Article2); dated 16.07.2009 N 186-IV; dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 25.03.2011 No. 421-IV (shall be enforced upon the expiry of ten calendar days after its first official publication); dated 06.01.2012 No. 529-IV (shall be enforced upon the expiry of twenty one calendar day after its first official publication).

#### **Article 457. Exemption from payment of the levy**

The following shall be exempt from payment of the levies:

1) in the state registration of individual entrepreneurs:

peasant households or farming enterprises;

disabled individuals registered under Groups I, II, and III;

repatriates (oralmen) which engage in entrepreneurial activity without forming a legal entity prior to acquisition of the citizenship of the Republic of Kazakhstan;

2) in the state registration of the rights to immovable property:

participants of the Great Patriotic War and individuals of equivalent status, individuals awarded with orders and medals of the former Union of the SSR for selfless labour and honorable military service in the rear during the years of the Great Patriotic War, individuals who worked (served) not less than six months from 22 June 1941 through 9 May 1945 and not awarded with orders and medals of the former Union of the SSR for selfless labour and honorable military service in the rear during the years of the Great Patriotic War, the disabled, as well as one of the parent of the disabled from the childhood;

retiree living apart;

repatriates (oralmen) prior to acquisition of the citizenship of the Republic of Kazakhstan;

small entrepreneur entities, engaged in preparation and teaching of work staff, during three years from moment of state registration;

3) In the state registration of chattel mortgage, vessel mortgage or abuilding vessel;

participants of the Great Patriotic War and individuals of equivalent status, individuals awarded with orders and medals of the former Union of the SSR for selfless labour and honorable military service in the rear during the years of the Great Patriotic War, individuals who worked (served) not less than six months from 22 June 1941 through 9 May 1945 and not awarded with orders and medals of the former Union of the SSR for selfless labour and honorable military service in the rear during the years of the Great Patriotic War, the disabled, as well as one of the parent of the disabled from the childhood;

repatriates (oralmen) prior to acquisition of the citizenship of the Republic of Kazakhstan;

4) in the state registration of radio electronic and high-frequency devices - state institutions;

**Note of the RCLI!**

**The new wording of first part of sub-paragraph 5) is provided by the Law of the Republic of Kazakhstan dated 10.07.2012 No. 36-IV (shall be enforced from 01.01.2013)**

5) in the state registration of the rights to works and objects of allied rights, licensing agreements on the use of works and objects of allied rights: participants of the Great Patriotic War and individuals of equivalent status, individuals awarded with orders and medals of the former Union of the SSR for selfless labour and honorable military service in the rear during the years of the Great Patriotic War, individuals

who worked (served) not less than six months from 22 June 1941 through 9 May 1945 and not awarded with orders and medals of the former Union of the SSR for selfless labour and honorable military service in the rear during the years of the Great Patriotic War, the disabled, as well as one of the parent of the disabled from the childhood;

repatriates (oralmen) prior to acquisition of the citizenship of the Republic of Kazakhstan;

the minors.

**Footnote. The Article 457 as amended by the Law of the Republic of Kazakhstan dated 25.03.2011 No. 421-IV (shall be enforced upon the expiry of ten days after its first official publication).**

#### **Article 458. The procedure for the assessment and payment**

1. Amounts of the levies shall be assessed according to the established rates and shall be paid before the relevant documents are submitted to the registration body at the place of registration of the taxation object.

2. Refunds of paid amounts of the levies shall not be carried out, excepting cases where the individuals who paid the levies refused to carry out registration (recording) before the relevant documents are submitted to the registration bodies.

In this respect, the refund of the amounts of the levies paid to the budget shall be carried out by the tax authorities at the place of their payment pursuant to a tax application of the payers after they submit the documents issued by the relevant registration body which confirms the non-submission by the indicated individual of the documents for the performance of registration actions.

### **Chapter 65. THE LEVY FOR THE PASSAGE OF TRANSPORT VEHICLES THROUGH THE TERRITORY OF THE REPUBLIC OF KAZAKHSTAN**

#### **Article 459. General provisions**

1. Unless otherwise specified in this Article, the levy for the passage of motor vehicles through the Republic of Kazakhstan (hereinafter - the levy) shall be payable as follows:

1) on the exit from the Republic of Kazakhstan of domestic motor vehicles carrying out international conveyance of passengers and cargoes;

2) on the entry to (exit from) the Republic of Kazakhstan, transit through the territory of the Republic of Kazakhstan of foreign motor vehicles carrying out international conveyance of passengers and cargoes;

3) on the passage through the Republic of Kazakhstan of domestic and/or foreign large-sized and/or heavy-loaded motor vehicles;

4) on the passage of domestic or foreign motor vehicles along state toll motor roads of the Republic of Kazakhstan, except for toll state motor roads transferred into concession.

2. The levy shall be collected for passage on state-owned toll highways as follows:

1) special-purpose motor transport vehicles:

ambulance service;

fire-fighting service;

emergency-rescue services;

road patrol service;

2) the following transport vehicles where there is no alternative routes:

buses performing regular carriage of passengers and baggage in suburban communications and communications connecting

settlements, auls (villages) with district or province centers, the capital city or a city of national status;

buses registered in accordance with the procedure established by the Republic of Kazakhstan legislation in the territory of certain district adjacent with a state-owned toll highways for the purpose of carriage of passengers (baggage) within the boundaries of a given district;

passenger cars registered in accordance with the procedure established by the Republic of Kazakhstan legislation in the territory of certain district adjacent to a state-owned toll highway, when moving within a given district;

freight transport vehicles, wheeled self-propelled agricultural, melioration machines within parts (portions) of a state-owned toll highway between nearest road junctions, crossing waterways and railways.

3. The passage of motor vehicles through the Republic of Kazakhstan shall be carried out on the basis of authorization documents to be issued by the authorized body in the sphere of transport, unless otherwise is established by the legislation of the Republic of Kazakhstan with respect to passage along state toll motor roads.

The Government of the Republic of Kazakhstan shall establish the procedure for the passage of motor vehicles through the Republic of Kazakhstan and for the issue of the authorization documents.

4. The authorized state bodies in the sphere of transport shall monthly not later than 20th day of the month following the reporting month shall submit to the tax authorities at the place of their location the information on the payers of the levy and the objects of taxation according to the form as established by the authorized body.

#### **Article 460. Payers of the levy**

The payers of the levy shall be physical persons and legal entities which carry out the passage of motor vehicles through the Republic of Kazakhstan in cases as established by Article 459 of this Code.

#### **Article 461. Rates of the levy**

1. The rates of the levies shall be assessed based on the amount of a monthly calculation index as established by the law on the Republican budget (hereinafter - MCI) which is in effect as of the date of payment of levies, and shall be as follows:

1) for the exit from the Republic of Kazakhstan of domestic motor vehicles carrying out international conveyance of passengers and cargo - two times the MCI;

2) for the exit from the Republic of Kazakhstan of domestic motor vehicles carrying out transportation of passengers and baggage in international conveyance on a regular basis, with the receipt according to international treaties of the Republic of Kazakhstan of foreign permit for one calendar year - ten times the MCI;

3) for the entry to (exit from) the Republic of Kazakhstan, transit through the territory of the Republic of Kazakhstan of foreign motor vehicles carrying out international conveyance of passengers and cargo - ten times the MCI;

4) for the passage of domestic or foreign motor large-sized and heavy-weighted vehicles through the Republic of Kazakhstan, the rate of the levy shall include:

calculation for the excess of the total actual mass of a transport vehicle (with cargo or without cargo) over the allowed total mass which is determined by multiplying the rate of payment in the amount of the 0.005 times the MCI with each ton (including incomplete ton) of excess by the distance of transportation along the route (in km);

calculation for the excess of the actual axial loads of a motor vehicle (with cargo or without cargo) over the allowed axial loads which is assessed for each overloaded single axis, twin axis and triple axis and shall be determined by multiplying the relevant tariffs indicated in schedule 1 by the distance of transportation along the route (in km):

No.	Excess actual axial loads, in %	Tariff for excess actual axial loads ( MCI)
1	2	3
1.	up to 5.0% inclusive	0,011
2.	from 5.0% up to 10.0% inclusive	0,014
3.	from 10.0% up to 20% inclusive	0,190
4.	from 20.0% up to 30.0% inclusive	0,380
5.	from 30.0% up to 50.0% inclusive	0,500
6.	in excess 50.0%	1,0

Calculation for exceeding the dimensions of a motor vehicle (with cargo or without cargo) over the allowed dimensions which is assessed for exceeding the, and length of motor vehicles and is determined by multiplying the relevant tariffs as indicated in schedule 2 by the distance of transportation along the route (in km):

**Schedule 2**

No.	Dimensions of motor vehicles, in meters	Tariff for exceeding the allowed dimensions (MCI)
1	2	3
1.	Height:	
1.2.	Over 4 up to 4.5 inclusive	0,009
1.3.	Over 4.5 up to 5 inclusive	0,018
1.4.	over 5	0,036
2.	Width:	
2.1.	Over 2.55 (2.6 for equidimensional bodies) up to 3 inclusive	0,009
2.2.	Over 3 up to 3.75 inclusive	0,019
2.3.	over 3.75	0,038
3.	Length:	
3.1.	For each meter (including incomplete), which exceeds the allowed length	0,004

2. The Government of the Republic of Kazakhstan shall establish the rates of the levies for the passage of domestic and foreign motor vehicles along the toll motor roads of the Republic of Kazakhstan.

**Footnote. Article 461 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

**Article 462. The procedure for the assessment and payment**

**Note of the RCLII!**

**aragraph 1 and 2 is in the wording of the Law of the Republic of Kazakhstan dated 10.07.2012 No. 36-V (shall be enforced from 01.01.2013).**

1. The amount of the levy shall be assessed according to the established rates and shall be paid prior to obtaining the authorization documents, unless otherwise established by this Article.

2. The amount of the levy shall be paid to the budget at the place of obtaining the authorization document and/or at the place of the use of the toll state motor roads.

3. Payment to the budget of the amount of the levy shall be carried out by the transfer through banks or organizations which conduct certain banking operations, or paying it in cash at the check points or at specially equipped places of the authorized

state body in the sphere of transport on the basis of blanks of strict accountability according to the form as established by the authorized body.

4. The authorized state body in the sphere of transport shall deliver the accepted amounts of the levy in cash to banks or organizations which conduct certain banking transactions daily, not later than the next banking day on which the money was accepted for their subsequent entering into the budget. In case where the daily receipt of cash is less than 10 times the monthly calculation index by the Law on Republican Budget which is in effect as of the date of payment of levies, the inclusion of money shall be carried out once per three banking days from the day when the money was accepted.

5. Where physical persons pay the levy in cash, the identification number of the authorized state body in the sphere of transport shall be put on the blanks of strict accountability.

6. The paid amounts of the levies shall not be refunded.

7. The Government of the Republic of Kazakhstan shall establish the procedure for the assessment, payment and the periods for crediting into the budget of the levies for the passage of domestic and foreign motor vehicles along the toll motor roads of the Republic of Kazakhstan.

**Footnote. Article 462 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

## **Chapter 66. AUCTION LEVY**

### **Article 463. General provisions**

The auction levy (hereinafter - levy) shall be collected in the realization of property (including property rights) at an auction.

### **Article 464. Payers of the levy**

Payers of the levy shall be physical persons and legal entities which put up the property (including property rights) for auction for the realization.

### **Article 465. Taxation objects**

1. The object of taxation with respect to the levy shall be the value of the sold property (property rights) as determined according to the results of an auction.

2. The levy shall not be charged on the value of property (property rights) sold:

- 1) at auctions conducted by the authorized state body which exercises the right of the possession, use, and disposal of objects of state ownership, by its territorial bodies;
- 2) at auctions conducted by the enforcement procedure authorities with regard to enforced implementation of court executive writs in favour of the state;



- 3) at specialized open auctions in part of: realization of property on which a restriction of disposal has been imposed by the tax authorities;  
realization of property pledged for the purpose of securing tax liabilities;  
placement of authorized shares of an obligatory issue made as a result of a court ruling;
- 4) at auctions for the realization of:  
property confiscated to the revenue of the state on the basis of court orders;  
property recognized as ownerless in accordance with the established procedure;  
property passed to the state in accordance with the established procedure;
- 5) at auctions for the realization of the estate of legal entities-bankrupts;
- 6) at auctions for the realization of liquidation estate of forcibly liquidated banks, insurance, re-insurance organizations, accumulation pension funds;
- 7) in trading sessions of the stock exchange functioning in the Republic of Kazakhstan;
- 8) at auctions for the realization of securities;
- 9) by auctions held in accordance with the Public Procurement Law of the Republic of Kazakhstan.

**Footnote. Article 465 as amended by the law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012); dated 13.01.2012 No. 543 -IV (shall be enforced upon the expiry of 30 days after its first official publication).**

#### **Article 466. Rate of the levy**

The rate of the levy shall be established at the rate of 3 percent.

**Footnote. Article 465 as amended by the law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012);**

#### **Article 467. The procedure for the assessment and payment**

1. Payers shall independently calculate the amount of the levy by applying the rate to an object of taxation.

2. When calculating the amount of the levy from auctions held by the enforcement procedure authorities with regard to enforced implementation of court executive writs in favour of the state, adjustments shall be made by amounts of the executive sanction, to be credited to the budget.

3. The levy shall be paid at the place of location of payers of the levy not later than 20th day of the month following the reporting month in which auctions (auction) were (was) held.

4. The levies paid to the budget shall not be subject to refund, with the exception of cases where a court recognizes a purchase and sale transaction for auction objects as invalid.

In this respect the refund of the amounts of the levy paid to the budget shall be carried out by the tax authorities at the place of their payment pursuant to an application of the payer of the levy.

#### **Article 468. Tax declaration**

1. Payers of the levy shall, not later than 20th day of the month following the reporting month in which auctions (auction) were (was) held, submit a levy declaration to the tax authorities at the place of their location.

2. Auction organizers, with respect to auctions held during any given quarter, shall not later than 15th day of the month following the reporting quarter, submit to the tax authorities at the place of their location the information on the levy payers and objects of taxation according to the form established by the authorized body.

### **Chapter 67. THE LICENSING LEVY FOR THE RIGHT TO ENGAGE IN CERTAINS OF BUSINESS**

#### **Article 469. General provisions**

1. The licensing levy for the right to engage in certain activities (hereinafter - the levy) shall be collected upon the issue (re-issue) of licenses (duplicate licenses) to engage in certain activities subject to licensing in accordance with legislation of the Republic of Kazakhstan, and in other cases as provided for by this Chapter.

2. Licenses shall be issued by the authorized governmental agency (hereinafter referred to as the licensor) in compliance with the procedure and in the cases specified by the legislation of the Republic of Kazakhstan.

3. The licensors shall, on a quarterly basis not later than the 15th day of the month following the reporting one, submit the information on a payer of levy and objects of taxation to the tax authorities where they are registered, according to the form established by the authorized agency.

#### **Article 470. Payers of the levy**

Individuals and legal entities who receive licenses shall be payers of the levy.

#### **Article 471. Rates of the levy**

##### **Note of the RCL!**

**Article 471 as amended by the Law of the Republic of Kazakhstan dated 10.07.2012 No. 36-V (shall be enforced from 10.01.2013).**

The rates of the levy shall be established on the basis of the size of the monthly calculation index as established by the law on the Republican budget (henceforth - MCI), which is in effect as of the date of payment of levies, and shall be as follows:

No.	Types of licensed activity	Rates of levy in MCI
1	2	3
1.	Rates of levy for the right to engage in certain activity	
1.1.	<i>excluded by the Law of the Republic of Kazakhstan dated 10.07.2012 № 36-V (shall be enforced from 01.01.2013);</i>	
1.2.	(Technological) design and/or operation of mountain (exploration and production of mineral resources), petrochemical, and chemical production facilities; (technological) design of oil-and-gas processing facilities, operation of main gas pipelines, oil pipelines, oil-product pipe-lines	10
1.3.	<i>excluded by the Law of the Republic of Kazakhstan dated 10.07.2012 № 36-V (shall be enforced from 01.01.2013);</i>	
1.4.	<i>excluded by the Law of the Republic of Kazakhstan dated 15.07.2011 № 461-IV (shall be enforced upon the expiry of six month after its first official publication)</i>	
1.5.	<i>excluded by the Law of the Republic of Kazakhstan dated 10.07.2012 № 36-V (shall be enforced from 01.01.2013);</i>	
1.6.	Purchase of electric energy for the purposes of power supply	10
1.7.	<i>excluded by the Law of the Republic of Kazakhstan dated 15.07.2011 № 461-IV (shall be enforced upon the expiry of six month after its first official publication)</i>	
1.8.	Collection (procurement), storage, processing and marketing to legal entities of waste and scrap of non-ferrous and ferrous metals	10
1.9.	Performance of work associated with the stages of life-cycle of atomic energy facilities	100
1.10.	Nuclear material management	50
1.11.	Handling radioactive substances, devices and facilities containing radioactive substances	10
1.12.	Handling devices and facilities generating ionization radiation	5
1.13.	Provision of services in the area of nuclear energy use	5
1.14.	Handling radioactive waste	50
	Transportation, including transit of nuclear material, radioactive	

1.15.	substances, radio isotope sources of ionizing radiation, radioactive waste within the territory of the Republic of Kazakhstan	50
1.16.	Activities in the territories of former nuclear test sites and other territories contaminated as a result of nuclear tests that were carried out	10
1.17.	Physical protection of nuclear installations and nuclear materials	10
1.18.	Special training of the employees in charge of nuclear and radiation safety	5
1.19.	Production, processing, purchase, storage, marketing, use, destruction of toxic substances	10
1.20.	Production (formulation) of pesticides (toxic chemicals), sale of pesticides (toxic chemicals), aerosol and fumigation application of pesticides (toxic chemicals)	10
1.21.	<i>excluded by the Law of the Republic of Kazakhstan dated 15.07.2011 № 461-IV (shall be enforced upon the expiry of six month after its first official publication)</i>	
1.22.	Carriage of passengers	3
1.23.	<i>excluded by the Law of the Republic of Kazakhstan dated 10.07.2012 № 36-V (shall be enforced from 01.01.2013);</i>	
1.24.	Activities associated with handling narcotic drugs, psychotropic substances and precursors	20
1.25.	<i>excluded by the Law of the Republic of Kazakhstan dated 10.07.2012 № 36-V (shall be enforced from 01.01.2013);</i>	
1.26.	Elaboration and marketing (including other transfers) of cryptographic information protection objects	9
1.27.	Development, production, repairs and sale of special-purpose special technical means for special investigation activities	20
1.28.	Provision of services connected with detection of information leakage technical channels and special technical means for special investigation activities	20
	Elaboration, manufacture, repair, purchase and marketing ammunitions, arms and military machinery, spare parts, components and instruments for them, and also	

1.29.	special materials and equipment for their manufacture, including assembly, adjustment, modernization , installment, use, storage, repair and servicing	22
1.30.	Elaboration, manufacture, purchase and marketing explosives and pyrotechnics substances and objects with their use	22
1.31.	Liquidation (destruction, utilization, burial) and processing of released ammunitions, arms, military machinery, special objects	22
1.32.	<i>excluded by the Law of the Republic of Kazakhstan dated 10.07.2012 № 36-V (shall be enforced from 01.01.2013);</i>	
1.33.	Elaboration, manufacture, repair, marketing, collection, exposure of civil and service arms and ammunitions therefor	10
1.33-1.	Acquisition of civilian and service weapons and ammunition thereto	3
1.34.	Elaboration, manufacture, marketing , use of civil pyrotechnical substances and objects using those	10
1.34-1.	Acquisition of civilian pyrotechnical substances and products with application of such substances	3
1.35.	Activities in the area of use of cosmic space	186
1.36.	<i>excluded by the Law of the Republic of Kazakhstan dated 15.07.2011 № 461-IV (shall be enforced upon the expiry of six month after its first official publication)</i>	
1.37.	Rendering services in the sphere of communications	6
1.38.	Educational activity	10
1.39.	Activity associated with organization of television and (or) radio broadcas	6
1.40.	<i>excluded by the Law of the Republic of Kazakhstan dated 10.07.2012 № 36-V (shall be enforced from 01.01.2013);</i>	
1.41.	Provision of warehousing services with issue of cotton warehouse receipts	10
1.42.	<i>excluded by the Law of the Republic of Kazakhstan dated 10.07.2012 № 36-V (shall be enforced from 01.01.2013);</i>	
1.43.	Medical practice	10
1.44.	Pharmaceutical activity	10
1.45.- 1.45-5.	<i>excluded by the Law of the Republic of Kazakhstan dated 15.07.2011 № 461-IV (shall be enforced upon the expiry of six month after its first official publication)</i>	

1.46.	Advocate activity	6
1.47.	Notarial activity	6
1.47-1.	Activity on execution of enforcement documents	6
1.48.	Valuation of property (except for objects of intellectual property, value of intangible objects)	6
1.49.	Valuation of objects of intellectual property	6
1.50.	<i>excluded by the Law of the Republic of Kazakhstan dated 15.07.2011 № 461-IV (shall be enforced upon the expiry of six month after its first official publication)</i>	
1.51.	Auditor activity	10
1.52.	Performance of work and rendering of services in the sphere of environmental protection	50
1.53.	Organization and conducting lotteries	10
1.54.	Performance of security business by legal entities	6
1.55.- 1.57.	<i>excluded by the Law of the Republic of Kazakhstan dated 15.07.2011 № 461-IV (shall be enforced upon the expiry of six month after its first official publication)</i>	
1.58.	Tour operator activities	10
1.59.	Activities in the sphere of veterinary	6
1.60.	Judicial-expert activities	6
1.61.	Performance of archaeological and (or) scientific restoration work at monuments of history and culture	10
1.62.	Banking operations	80 (40)*
1.63.	Other transactions as carried out by banks	80
1.64.	Activity in the sphere of life insurance	50
1.65.	Activity in the sphere of general insurance	50
1.66.	Reinsurance activity	20
1.67.	Activity of insurance brokers	30
1.68.	Actuary business in insurance markets	5
1.69.	Brokerage activity	30
1.70.	Dealership activity	30
1.71.	<i>excluded by the Law of the Republic of Kazakhstan dated 21.06.2013 № 106-V (shall be enforced see paragraph 1 article 2);</i>	
1.72.	Activity associated with managing investment portfolio	30

1.73.	<i>excluded by the Law of the Republic of Kazakhstan dated 21.06.2013 № 106-V (shall be enforced see paragraph 1 article 2);</i>	
1.74.	Custodial activity	30
1.75.	Transfer-agent activity	10
1.76.	Activities associated with organizing trade in securities and other financial instruments	10
1.77.	Activity associated with soliciting pension contributions and performance of pension payments	40
1.78.	Activities of a credit bureau	40
1.79.	Development activities	10
1.80.	Construction and assembly operations	10
1.81.	Project activities	10
1.82.	<i>excluded by the Law of the Republic of Kazakhstan dated 15.07.2011 № 461-IV (shall be enforced upon the expiry of six month after its first official publication)</i>	
1.83.	Activity associated with organizing construction of housing buildings at the expense of raising funds of investors	10
1.84.	Manufacture of State Flag of the Republic of Kazakhstan and the National Coat of Arms of the Republic of Kazakhstan	10
1.85.	Production of ethyl alcohol	500
1.86.	Production of alcohol products except for beer	500
1.87.	Production of beer	100
1.88.	Storage, whole-sale and (or) retail trade in alcohol products, except for activities associated with storage, whole-sale and (or) retail marketing of alcohol products in the territory of its production	100
1.89.	Manufacture of tobacco objects	500
1.90.	<i>excluded by the Law of the Republic of Kazakhstan dated 04.07.2009 № 167-V (shall be enforced see article 2);</i>	
1.91.	Export and import of goods	10
1.92.	Provision of warehousing services with issue of grain warehouse receipts	10
1.93.	<i>excluded by the Law of the Republic of Kazakhstan dated 15.07.2011 № 461-IV (shall be enforced upon the expiry of six month after its first official publication)</i>	
1.94.	Activities in the sphere of gaming business:	

	for a casino and a game machine arcade, per year	3 845
	for a sweepstake and a bookmaking office, per year	640
1.95.	Activity in the sphere of commodity exchanges:	
	for the commodity exchange	10
	for the exchange broker	5
	for the exchange dealer	5
2.	Rates of the levy for issuing duplicate licences	
2.1.	for alls of activities, except for issuing duplicate licences for export and import of goods	100% of the rate when issuing licence
2.2.	for export and import of goods	1
3.	Rates for reformulation of licences:	
3.1.	for alls of licences, except for reformulation of licences for export and import of goods	10% of the rate when issuing licences, but not more than 4 MCI
3.2.	for reformulation of licences for export and import of goods	1

Footnote.

\* license fee rates for licensing an activity connected with banking operations:

For second-tier banks - 80-fold monthly calculation index;

For organizations engaged in certain of banking operations, - 40-fold monthly calculation index.

Footnote. Article 471 as amended by the law of the Republic of Kazakhstan dated 12.02.2009 N 133-IV (the order of enforcement see Article 2); dated 04.07.2009 N 167-IV (the order of enforcement see Article 2); dated 16.07.2009 N 186-IV; dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 28.12.2010 No. 368-IV (shall be enforced upon the expiry of 10 calendar days after its first official publication); dated 29.12.2010 No. 372-IV (shall be enforced upon the expiry of 10 calendar days after its first official publication); dated 06.01.2012 No. 529-IV (shall be enforced upon the expiry of 20 calendar days after its first official publication); dated 15.07.2011 No. 461-IV (shall be enforced upon the expiry of 6 months after its first official publication).

## **Article 472. The procedure for the assessment and payment**

1. Amounts of the levy shall be assessed in accordance with the established rates and they shall be paid to the budget in the place of location of the payer of the levy prior to submission of appropriate documents to the licensor.



2. Payers who receive a license during the first year of performance of the activities in the sphere of gambling business shall pay the amount of the levy prior to the submission of the relevant documents to the licensor.

3. Payers who receive a license for the performance of the activities in the sphere of gambling business shall pay the amount of the levy annually prior to 20th January of the current year.

4. The paid amounts of the levy shall not be refunded, with the exception of the cases where the persons who paid the levy refuse to obtain a license prior to the submission of the relevant documents to the licensor. In this respect, the refund of the amounts of the levies paid shall be carried out by the tax authorities at the place of their payment pursuant to a tax application of the payer of the levy after it submits the documents issued by the licensor who confirms the non-submission by the indicated person of the documents for obtaining a license.

## **Chapter 68. THE LEVY FOR ISSUING PERMITS FOR THE USE OF RADIO-FREQUENCY SPECTRUM BY TELEVISION AND RADIO-BROADCASTING ORGANISATIONS**

### **Article 473. General provisions**

#### **Note of the RCL!**

**Paragraph 1 stipulates change the Law of the Republic of Kazakhstan dated 18.01.2012 No. 546-IV (shall be enforced from 01.01.2013).**

1. The levy for the issue of a permit to television and broadcasting organizations executing their activity by analogue signal, to use the radio frequency spectrum ( hereinafter - the levy) shall be collected upon the issue of a permit (duplicate permit) to the television and broadcasting organizations of the Republic of Kazakhstan by the authorized state body for communications to use the radio frequency spectrum ( hereinafter - the permit). The provisions of this chapter shall apply to television and broadcasting organizations of the Republic of Kazakhstan operating on the basis of a license issued by the authorized body for the mass media.

2. The Government of the Republic of Kazakhstan shall establish the procedure for the issue of a permit.

3. Allocation of the bands (nominal frequencies) of the radio frequency spectrum may be carried out on the basis of a competitive tender in accordance with legislation of the Republic of Kazakhstan. In order to ensure broadcasting for free access television and radio channels all over the territory of the Republic of Kazakhstan, radio-frequency spectrum bands (nominals) shall be allocated to the national television and radio broadcasting operator without holding a tender. One-off amounts collected with respect to the allocation of the bands (nominal frequencies) of the radio frequency

spectrum by means of holding of a tender shall not be offset against the levy payable in accordance with this chapter.

4. The authorized state bodies for the communications shall, on a quarterly basis not later than 15th day of the month following the reporting quarter, submit to the tax authorities at the place of location of television and broadcasting organizations the information on the payers of the levy and taxation objects according to the form as established by the authorized body.

#### **Article 474. Payers of the levy**

1. The payers of the levy shall be television and broadcasting organizations indicated in paragraph 1 of Article 473 of this Code.

2. State institutions in receipt of a permit to use the radio frequency spectrum to perform the assigned basic functional duties shall not be payers of the levy.

#### **Article 475. Rates of the levy**

The rates of the levy shall be established based on the amount of the monthly calculation index by the Law on the Republican budget (hereinafter - ?CI) and which is in effect as of the 1 January of the relevant financial year, depending on the size of the population residing in the populated locality in the territory of which television and broadcasting services are provided, on the transmitting power of a transmitting device, and the number of television and/or broadcasting channels, and shall be as follows:

No.	Application/radio spectrum	Population number (thou. men)	Power of transmitting device (Wt)	Rate of levy per one channel (MCI)
1	2	3	4	5
1.	For the issue of a permit to use radio frequency spectrum:			
1.1.	Television / meter waves			
1.1.2.		up to 10 inclusive	up to 100 inclusive	20
1.1.3.		from 10 up to 50 inclusive	up to 500 inclusive	41
1.1.4.		from 10 up to 50 inclusive	over 500	83
1.1.5.		from 50 up to 100 inclusive	up to 1000 inclusive	124
1.1.6.		from 50 up to 100 inclusive	over 1000	249
1.1.7.		from 100 up to 200 inclusive	up to 1000 inclusive	290
1.1.8.		from 100 up to 200 inclusive	over 1000	435

1.1.9.		from 200 up to 500 inclusive	up to 2000 inclusive	828
1.1.10.		from 200 up to 500 inclusive	over 2000	1243
1.1.11.		over 500	up to 5000 inclusive	2367
1.1.12.		over 500	over 5000	3550
1.2.	Television / ultra high frequency			
1.2.1.		up to 10 inclusive	up to 100 inclusive	13
1.2.2.		from 10 up to 50 inclusive	up to 500 inclusive	26
1.2.3.		from 10 up to 50 inclusive	over 500	52
1.2.4.		from 50 up to 100 inclusive	up to 1000 inclusive	78
1.2.5.		from 50 up to 100 inclusive	over 1000	155
1.2.6.		from 100 up to 200 inclusive	up to 1000 inclusive	181
1.2.7.		from 100 up to 200 inclusive	over 1000	272
1.2.8.		from 200 up to 500 inclusive	up to 2000 inclusive	518
1.2.9.		from 200 up to 500 inclusive	over 2000	777
1.2.10.		over 500	up to 5000 inclusive	1479
1.2.11.		over 500	over 5000	2219
1.3.	Broadcasting / VHF FSK (FM)			
1.3.1.		up to 10 inclusive	up to 100	5
1.3.2.		from 10 up to 50 inclusive	up to 500 inclusive	9
1.3.3.		from 10 up to 50 inclusive	over 500	18
1.3.4.		from 50 up to 100 inclusive	up to 1000 inclusive	27
1.3.5.		from 50 up to 100 inclusive	over 1000	53
1.3.6.		from 100 up to 200 inclusive	up to 1000 inclusive	62
1.3.7.		from 100 up to 200 inclusive	over 1000	93
1.3.8.		from 200 up to 500 inclusive	up to 2000 inclusive	178
1.3.9.		from 200 up to 500 inclusive	over 2000	266

1.3.10.		over 500	up to 5000 inclusive	488
1.3.11.		over 500	over 5000	732
1.4.	Broadcasting / HF, MW, RF waves			
1.4.1.		over 500	up to 100 inclusive	5
1.4.2.		over 500	from 100 up to 1000 inclusive	15
1.4.3.		over 500	from 1000 up to 10000 inclusive	30
1.4.4.		over 500	from 10000 up to 100000 inclusive	45
1.4.5.		over 500	over 100000	89
2.	Rate of the levy for the issue of a duplicate			2

**Article 475 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 476. The procedure for the assessment and payment**

1. The amount of the levy shall be calculated at the established rates and paid to the budget at the location of television and broadcasting organizations prior to obtaining a permit at the authorized state body for the communications.

2. A levy shall not be refunded, with the exception of those cases where entities, having paid the levy, refuse to obtain a license prior to the submission of the relevant documents to the licensor. In this respect, a refund of the amount of the levy paid to the budget shall be carried out by the tax authority pursuant to an application of the levy payer after he presents to them a document issued by the relevant authorized state body confirming the non-submission by the indicated entity of documents required for obtaining the permit.

### **Chapter 69. THE LEVY FOR THE USE OF LAND PLOTS**

#### **Article 477. General provisions**

1. The levy for the use of land plots (hereinafter - the levy) shall be collected for the provision by the state of land plots for the temporary chargeable land use (lease).

2. The land code of the Republic of Kazakhstan on the land shall establish the procedure for the provision of land plots for the temporary chargeable land use.

3. The authorized state bodies for land relations, and in the territories of special economic zones - local executive bodies or administrations of special economic zones shall, on a quarterly basis not later than 15th day of the month following the reporting

quarter, submit to the tax authorities the information on the payers of the levy and taxable objects according to the form as established by the authorized body.

#### **Article 478. Payers of the levy**

1. Payers of the levy shall be physical persons and legal entities who received a land plot for the temporary chargeable land use (lease).

2. Pursuant to a decision of a legal entity, its structural subdivisions shall be considered as independent payers of the levy. In the case of taking such decision, a legal entity must appropriately notify in writing the tax authority in the place of registration accounting of the structural unit not later than ten working days prior to the beginning of the tax period.

3. The following shall not be payers of the unified land tax:

payers of the unified land tax in respect of land plots used in activities which are subject to a special tax regime for peasant farms of farmer holdings;

concessionaires with regard to land plots granted for the purposes of implementing concession agreements, concluded in accordance with the Republic of Kazakhstan legislation, - for a period specified in the concession agreement, but not more than five years from the date of taking a decision on granting the temporary chargeable land use rights.

#### **Article 479. Taxation objects**

An object of taxation shall be a land plot provided by the state for the temporary chargeable land use.

#### **Article 480. Rate of the Levy**

The rates of the levy shall be determined in accordance with the land legislation of the Republic of Kazakhstan. In this respect, the rates of the levy shall not be lower than those of land tax, without taking into account the provisions stipulated by paragraphs 2 and 5 of Article 387 of the Code.

#### **Article 481. The Procedure for the Assessment and Payment**

1. The amount of the levy shall be calculated on the basis of agreements of the temporary chargeable land use executed with the authorized state body for land relations, and in the territory of a special economic zone - with the local executive body or administration of the special economic zone. Annual amounts of the levy shall be established in the calculations compiled by the authorized state bodies for land relations, and in the territory of a special economic zone - by the local executive body or administration of the special economic zone. The calculations of the amounts of the

levy shall be revised by the authorized state bodies for land relations, and in the territory of a special economic zone - by the local executive body or administration of the special economic zone in cases where the terms of the agreements and also the procedure for the assessment of land tax as established by this Code change.

2. The amount of the levy subject to be paid for a tax period shall be determined based on the rates of the levy indicated in the calculation and the period of the use of a land plot in the tax period.

3. The amount of the levy shall be established not lower than the amounts of land tax assessed for the given land plot in accordance with this Code.

4. Taxpayers which apply the special tax regime for legal entities - producers of agricultural products, aquacultural (fishery) products and rural consumers' cooperatives shall assess the levy subject to the specific features as established by Article 451 of this Code.

5. Payers of the levy, with the exception of payers indicated in paragraph 6 of this Article, shall pay to the budget the current amounts of the levy in equal parts not later than 25 February, 25 May, 25 August, and 25 November of the current year.

Where the state grants land plots for the temporary chargeable use after the above-mentioned periods for payment, the first date for payment of the levy to the budget shall be the next (regular) payment date. Where the state grants land plots for the temporary chargeable use after the final date for payment, the date for payment of the levy to the budget shall be the 25th day of the month following the month in which the land plot was granted.

6. Physical persons who are not individual entrepreneurs shall pay the amounts of the levy not later than 25 February of the reporting tax period. Where the land plot is received after the established date, payment of the levy shall be made not later than 25th day of the month following the month in which the land plot was received for the temporary chargeable land use.

7. Where an agreement on the temporary chargeable land use expires or is terminated after the beginning of a tax period, the amount of the levy subject to payment to the budget for the remaining period shall be paid no later than 15 calendar days from the date on which the agreement expired.

8. The amount of the levy shall be paid to the budget at the location of land plots.

9. The organizations operating in the territories of special economic zones shall assess the charges for land plot use subject to the provisions set forth in the third parts of Articles 151-1, 151-2, and 151-3 paragraphs 2 sub-paragraphs 2), third part of Article 151-4 paragraph 3 sub-paragraph 2), and third part of Articles 151-5 and 151-6 paragraphs 2 sub-paragraphs 2) of this Code.

Footnote. Article 481 as amended by the law of the Republic of Kazakhstan dated 21.01.2010 No. 242-IV (shall be enforced from 01.01.2011); dated 21.07.2011 No. 470-IV (shall be enforced from 01.01.2012).

#### **Article 482. The tax period**

The tax period shall be determined in accordance with Article 148 of this Code.

#### **Article 483. The tax reports**

1. Payers of the levy shall submit the calculation of the amounts of current payments to the tax authorities at the location of land plots, excepting physical persons who are not individual entrepreneurs.

2. Payers of the levy shall submit the calculation of the amounts of current payments not later than 20 February of the reporting tax period.

3. Entities, which have executed an agreement on the temporary chargeable land use after the beginning of a tax period, shall submit the calculation of the amounts of current payments not later than the 20th day of the month following the month in which an agreement was executed.

4. During the first tax period, simultaneously with the calculation of the amounts of current payments, there shall be submitted a notarized copy of an agreement on the temporary chargeable land use executed with the authorized state body for land relations or with the administration of a special economic zone. During the subsequent periods the notarized copy of the agreements shall be submitted only in the change of the amount of the levy or terms of the agreement.

5. In the event that an agreement on the temporary chargeable land use executed with the authorized state body for land relations or with the administration of the special economic zone expires or is terminated after the beginning of the tax period, a calculation of the amount of current payments shall be submitted not later than ten calendar days from the day when the effective period of the agreement expires (agreement is terminated).

### **Chapter 70. THE LEVY FOR THE USE OF WATER RESOURCES FROM SURFACE SOURCES**

#### **Article 484. General provisions**

1. The levy for the use of water resources from surface sources (hereinafter - the levy) shall be collected for the use of special water use from surface sources with the drawing of water or without drawing.

2. Special water use shall be carried out on the basis of an authorization document to be issued by the state authorized body in the sphere of the use and protection of water fund.

3. Special water use without the executed authorization document shall be considered as the water use with exceeding of the actual volumes of water intake over the established limits.

4. The water legislation of the Republic of Kazakhstan shall establish thes of a special water use.

5. Regional bodies of the authorized state body in the sphere of the use and protection of water fund shall, on a quarterly basis not later than 25th day of the second month following a reporting quarter, submit information to the tax authorities at the place of its location on payers of the levy and taxable objects in the form as prescribed by the authorized body.

**Footnote. Article 484 as amended by the law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010).**

#### **Article 485. Payers of the levy**

Payers of the levy shall be physical persons and legal entities making use of water resources of surface sources (hereinafter - initial water users):

- 1) with the application of stationary, movable, and floating structures on a mechanical and gravity intake of water from surface and sea water;
- 2) with the application of hydraulic electric power plants;
- 3) with the application of water facilities for maintenance of fish economy;
- 4) *is excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467 -IV (shall be enforced from 01.01.2012);*
- 5) for needs of water transport.

**Footnote. Article 485 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 567-IV (shall be enforced from 01.01.2012)**

#### **Article 486. Taxation object**

1. The objects of taxation shall be:

1) the volume of water drawn from a surface source of water with the exception of: the volume of water accumulated by dams and other retaining hydrotechnical and water regulating structures;

loss of water on filtration and evaporation in channels, which carry out interbasin water transfer, and in off-channel basins which regulate watercourse, confirmed by the authorized state body in the sphere of the use and protection of water fund on the basis of design data of water-resources systems;



the volume of nature protection and/or sanitary and epidemiological flush, as approved by the authorized state body in the sphere of the use and protection of water fund, in the procedure established by the legislation of the Republic of Kazakhstan;

the volume of forced water intake to the irrigation systems which is carried out for the purpose of prevention of floods, inundation, and flooding, confirmed by the authorized state body in the sphere of the use and protection of water fund;

2) the volume of electricity generated;

3) the volume of transportation by means of water transport;

4) *is excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2011).*

2. Levy shall not apply to raft without ship traction, recreation, utilization of excavation equipment, and marshland reclamation.

**Footnote. Article 486 as amended by the law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 487. Rates of the levy**

1. The rates of the levy shall be established by local representative bodies of provinces, cities of the Republic significance and the capital city, on the basis of the methodology of the levy calculation, as approved by the authorized state body in the sphere of the use and protection of water fund.

2. Where the actual volume of water drawn exceeds the limits of water use as established by the authorized state body in the sphere of the use and protection of water fund, the rates of the levy specified in paragraph 1 of this Article in part of such excess shall be multiplied by factor of five.

**Footnote. Article 487 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 488. The procedure for the assessment and payment**

1. Payers shall independently assess the amount of the levy, based on the actual volumes of water use and the established rates.

2. Payers (except for the taxpayers which apply a special tax regime for peasants households or farming enterprises and also water supply organizations which supply water to them) shall pay to the budget the current amounts of the levy for the actual volumes of water use not later than 25th day of the second month following the reporting quarter on the basis of monthly water use limits established by the authorized governmental agency in the sphere of the use and protection of water fund.

3. The amount of the levy shall be paid to the budget at the place of special water use, as indicated in the authorization document.

Footnote. Article 488 as amended by the law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

**Article 489. Specifics in the assessment and payment of the levy by certain categories of taxpayers**

1. Taxpayers which apply a special tax regime for peasants' households or farming enterprises shall make payment of the levy within periods established by Article 446 of this Code.

2. Physical persons and legal entities shall pay the levy for the volumes of transportation by water transport on water objects, which have retaining hydrotechnical and water regulating structures per ton/km of carried cargo.

3. Thermal power enterprises shall determine the amount of the levy for water expended for the generation of thermal energy for housing maintenance and municipal services at the rates as specified for the organizations which provide housing maintenance and municipal services.

4. Thermal power enterprises which draw water for technological needs for cooling aggregates (return water consumption) within the water drawing limit, shall determine the amount of the levy at the rates as specified for organizations which provide housing maintenance and municipal services. For non-return water consumption the amount of the levy shall be determined at the rates as established for industrial enterprises.

**Article 490. The tax period**

The tax period shall be determined in accordance with Article 148 of this Code.

**Article 491. The tax reporting**

1. Payers of the levy shall submit declarations to the tax authorities in the place of special water use.

2. Declarations shall be submitted by payers of the levy, except for those specified in paragraph 3 of this Article, quarterly not later than the 15th day of the second month following a reporting quarter.

3. Taxpayers who apply a special tax regime for peasants households or farming enterprises, shall not submit declarations on the levy.

4. Prior to submission to the tax authorities, declarations shall be certified by the regional body of the authorized state body in the sphere of the use and protection of water resources.

**Chapter 71. THE LEVY FOR DISCHARGES INTO THE ENVIRONMENT**

**Article 492. General provisions**

1. The levy for discharges into the environment (hereinafter - the levy) shall be collected for the emissions into the environment in the procedure of a special use of natural resources.

2. Special purpose-use of natural resources shall be carried out on the basis of ecological permits (henceforth - permit document) as issued by the authorized state body in the sphere of environmental protection or local executive authorities of provinces, cities of national status and the capital city (henceforth - the authority issuing permit documents), except for the pollutant emissions from movable sources.

3. Emission into the environment without a duly executed authorization document shall be considered as emission into the environment in excess of the established limits of emissions into the environment, except for discharges of pollutants from movable sources.

4. Territorial bodies of the authorized state body in the sphere of the environment protection and local executive authorities of the provinces, cities of national status and the capital city, shall quarterly not later than 15th day of the second month following the reporting quarter, submit to the tax authorities at the place of their location the information on payers of the levy and taxation objects according to the form as established by the authorized body.

**Footnote. Article 492 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200 -IV (shall be enforced from 01.01.2010).**

#### **Article 493. Payers of the levy**

1. The payers of the levy shall be physical persons and legal entities which carry out the activities in the territory of the Republic of Kazakhstan in the procedure of a special use of natural resources.

2. According to the legal entity's decision, its structural subdivisions may be considered as individual payments of the levy. In the event that such decision has been made a legal entity shall be obliged to inform in a written form the tax authorities where its structural subdivision is registered, within 10 working days before the beginning of the tax period.

#### **Article 494. Taxation object**

The object of taxation shall be the actual volume of emissions into the environment within and/or in excess of the established limits of emissions into the environment of:

- 1) ejection of pollutants;
- 2) discharge of pollutants;
- 3) disposed wastes of production and consumption;
- 4) disposed sulphur produced during oil operations.

Footnote. Article 494 is in the wording of the law of the Republic of Kazakhstan dated 03.12.2011 No. 505-IV (shall be enforced upon the expiry of 10 calendar days after its first official publication).

#### **Article 495. Rates of the levy**

1. The rates of the levy shall be established based on the amount of the monthly calculation index by the law on the republic' budget (hereinafter - MCI) and in effect as of the first day of the tax period, subject to the provisions of paragraph 7 of this Article

2. The rates of the levy for emissions of pollutants from stationary sources shall be as follows:

No.	Types of pollutants	Rates of the levy per 1 ton (MCI)	Rates of payment per 1 kilogram (MCI)
1	2	3	4
1.	Sulphur oxides	10	
2.	Nitrous oxides	10	
3.	Dust and ash	5	
4.	Lead and its compounds	1993	
5.	Hydrogen sulphide	62	
6.	Phenols	166	
7.	Hydrocarbons	0,16	
8.	Formaldehyde	166	
9.	Carbonic oxides	0,16	
10.	Methane	0,01	
11.	Soot	12	
12.	Ferric oxides	15	
13.	Ammonia	12	
14.	Hexavalent chrome	399	
15.	Copper oxides	299	
16.	Benzpyrene		498,3

3. The rates of the levy for emission of pollutants from associated and/or natural gas flaring carried out in the procedure as established by legislation of the Republic of Kazakhstan shall be as follows:

No.	Types of pollutants	Rates of the levy per 1 ton (MCI)
1	2	3
1.	Hydrocarbons	2,23
2.	Carbon oxides	0,73
3.	Methane	0,04
4.	Sulphur dioxide	10

5.	Nitrogen dioxide	10
6.	Carbon black	12
7.	Hydrogen sulfide	62
8.	Mercaptan	9966

4. The rates of the levy for emission of pollutants into atmospheric air from movable sources shall be as follows:

No.	Types of fuel	Rates of the levy per 1 ton of used fuel (MCI)
1	2	3
1.	For non-ethylated petrol	0,33
2.	For diesel fuel	0,45
3.	For liquefied, pressure gas	0,24

5. The rates of the levy for discharge of pollutants shall be as follows:

No.	Types of pollutants	Rates of the levy per 1 ton (MCI)
1	2	3
1.	Nitrites	670
2.	Zink	1340
3.	Copper	13402
4.	Biological demand in oxygen	4
5.	Saline ammonium	34
6.	Petroleum products	268
7.	Nitrates	1
8.	Iron common	134
9.	Sulphates (anion)	0,4
10.	Suspended substances	1
11.	Synthetic surface-active substances	27
12.	Chlorides (anion)	0,1
13.	Aluminium	27

6. The rates of the levy for disposal of wastes of production and consumption shall be as follows:

No.	Types of wastes	Rates of the levy (MCI)	
		per ton	per gigabecquerel (GBq)
1	2	3	4
1.	For disposal of production and consumption wastes at grounds, storage tanks, authorized dumps and specially allocated places:		

1.1.	Municipal wastes (solid household wastes, sewage mud of sewage disposal plants	0,19	
1.2.	Industrial waste subject to the danger level:		
1.2.1.	"red" list	7	
1.2.2.	"amber" list	4	
1.2.3.	"green" list	1	
1.2.4.	notified	0,45	
1.3.	Other:		
1.3.1.	overburden rocks	0,002	
1.3.2.	enclosing rocks	0,013	
1.3.3.	concentration wastes	0,01	
1.3.4.	slags, slimes	0,019	
1.3.5.	ash and ash-slags	0,33	
1.3.6.	agricultural production wastes	0,009	
2.	For disposal of radioactive wastes, in gigabecquerel (GBq):		
2.1.	Transuranian		0,38
2.2.	Alpha-radioactive		0,19
2.3.	Beta-radioactive		0,02
2.4.	Encapsulated radioactive sources		0,19

6-1. The rates of the levy for disposal of sulphur shall be 3.77 MCI per ton.

7. Coefficients shall be applied:

1) for natural monopolies for quantities of discharges formed in rendering public utility services, and energy generating organizations of the Republic of Kazakhstan to the rates of the levy as established in this Article:

by paragraph 2 - 0.3;

by paragraph 5 - 0.43;

by sub-paragraph 1.3.3 of paragraph 6 - 0.05;

2) for grounds which carry out the disposal of municipal wastes, for the volume of solid household wastes formed by individuals at the place of residence, to the rate of the levy as established by sub-paragraph 1.1 of paragraph 6 - 0.2.

8. Coefficients as provided for by paragraph 7 of this Article shall not apply to the payments for the excess volume of emissions into the environment.

9. Local representatives has the right to increase the rates, set out in the Article, but not more than doubled, except rates, set out in paragraph 3 of this Article, which has right to rise rates more than twenty times.

In that case the local representative authorities shall be entitled not to increase the rates established by this Article for the entities who have concluded an agreement in the area of energy efficiency and energy saving only with respect to the facilities within the frame works of such agreement.

10. For discharges into the environment in excess of the established quotas, the rates of the levy established by this Article shall be increased by factor of ten.

**Footnote. Article 495 as amended by the law of the Republic of Kazakhstan dated 12.02.2009 N 133-IV (the order of enforcement see Article2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 03.12.2011 No. 505-IV (shall be enforced upon the expiry of 10 calendar days after its first official publication);dated 13.01.2012 No. 542-IV (shall be enforced upon the expiry of six months after its first official publication).**

#### **Article 496. The procedure for the assessment and payment**

1. The payers shall independently calculate the amount of the levy based on the actual volumes of emissions into the environment and the established rates.

2. The payers of the levy with the amounts of payment up to 100 monthly calculation indices in the total annual amount may redeem the limit for the emissions to the environment as established by the authority issuing permit documents. The purchase of the limit shall be made with full prepayment payment for the current year in the execution of an authorization document not later than 20th March of the reporting tax period.

3. Upon the receipt of the authorization document after the date established by paragraph 3 of Article 498 of this Code, the purchase of a quota limit shall be carried out not later than the 20th day of the second month following the month in which the authorization document is received.

4. The amount of the levy shall be paid to the budget at the location of the source (object) of emissions into the environment as indicated in the authorization document, with the exception of movable sources of pollution for which payments are made to the budget at the place of their state registration by the authorized state body.

5. Current amounts of the levy for the actual volume of emissions shall be paid by payers not later than the 25th day of the second month following the reporting quarter, excepting the payers indicated in paragraphs 2 and 6 of this Article.

6. Taxpayers who apply the special tax regime for peasant households or farming enterprises shall make payment within the period as established by Article 446 of this Code.

## **Article 497. The tax period**

The tax period shall be determined in accordance with Article 148 of this Code.

## **Article 498. Tax reporting**

1. The payers of the levy shall submit to the tax authorities declarations in the place of location of the contaminating facility, excepting declaration for movable sources of pollution which shall be presented in the place of their state registration by the authorized state body.

2. Declarations shall be submitted by payers of the levy, except for those specified in paragraphs 3 and 5 of this Articles, quarterly not later than the 15th day of the month following a reporting quarter.

3. Payers of the levy whose amounts of payment is under 100 monthly calculation indices in total annual quantity, shall submit declarations not later than the 20th March of the reporting tax period.

4. In the case of formulating an authorization document, after the date established by paragraph 3 of this Article, those payers shall submit declarations not later than the 20th day of the month following a month of receiving the authorization document.

5. Taxpayers who enjoy special tax regimes for peasant and farmer holdings, shall not submit declarations of the levy.

**Footnote. Article 498 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

## **Chapter 72. THE LEVY FOR THE USE OF WILD LIFE**

### **Article 499. General Provisions**

1. The levy for making use of wildlife (hereinafter - the levy) shall be collected in the procedure of the special use of wildlife.

2. The special use of wildlife shall be carried out on the basis of a permit for the use of wildlife to be issued by the authorized body in the sphere of the protection, reproduction, and use of wildlife (hereinafter - the permit).

3. A legislative act of the Republic of Kazakhstan shall establish thes of the use of wildlife.

4. The Government of the Republic of Kazakhstan shall establish the levy for the use of rare and endangered animal species in each individual case in the issue of the permit for the removal of such animals from the natural environment.

5. The levy shall not be collected:



1) in the catching of animals from the natural environment for of tagging, ringing, migration, acclimatization and cross-breeding for scientific and research, and business purposes with their subsequent release into the natural environment;

2) when using wildlife species which are property of individuals and legal entities, bred artificially and contained in captivity and (or) semi-free free conditions;

3) when the authorized state body in the sphere of environmental protection, reproduction and use of wildlife carries out monitoring sampling of fish and other water animals for the purposes of biological motivation of use of fish resources and of others of water life

4) when reservings of organisms of which numbers are subject to regulation for the purposes of public health protection, prevention of agricultural and other domestic animals from diseases, prevention of damage to environment, prevention of risks of causing substantial harm to agricultural activities.

6. The territorial units of the authorized state body in the sphere of protection, recovery and use of wildlife shall quarterly not later than the 15th day of the month following a reporting quarter, submit to the tax authorities in the place of their location the information on payers of the levy and taxation objects in accordance with the established by the authorized body.

#### **Article 500. Payers of the Levy**

Individuals and legal entities who, in accordance with the procedure established by the Republic of Kazakhstan legislation, received the right to special-purpose use of wild life, shall be payers of the levy.

#### **Article 501. Rates of the Levy**

1. Rates of the levy shall be determined on the basis of the size of the monthly calculation index as established by the law on the Republican budget which is in effect as of the date of payment of levy (hereinafter as the text of this Article goes - ?CI).

2. Rates of the levy when carrying out commercial, amateur and sports hunting in the Republic of Kazakhstan shall be as follows:

No.	Wild Life Species	Rate of payment per one individual (MCI)	
		commercial hunting	amateur and sports hunting
1	2	3	4
1.	mammals		
1.1.	moose (male)	-	16
1.2.	moose (female)	-	11
1.3.	elk (underyearing)	-	6
1.4.	maral (buck)	-	13
1.5.	maral (doe)	-	7

1.6.	maral (underyearing)	-	4
1.7.	cervus elaphus (buck)	-	9
1.8.	cervus elaphus (doe)	-	5
1.9.	cervus elaphus (underyearing)	-	3,5
1.10.	roe deer (area north part, buck)		4
1.11.	roe deer (area north part, doe, underyearing)	-	3
1.12.	roe deer (area south part, buck)	-	3
1.13.	roe deer (area south part, doe, underyearing)	-	2
1.14.	ibex (billy goat)	-	4
1.15.	ibex (she goat, underyearing)	-	3,5
1.16.	musk deer	-	2
1.17.	wild boar	-	4
1.18.	wild sow (underyearing)	-	3
1.19.	saiga (buck)	4	5
1.20.	saiga (doe, underyearing)	3	4
1.21.	brown bear (except Tien Shan))	-	14
1.22.	beaver, otter (except Central Asian)	1	2
1.23.	sable	2	4
1.24.	marmots (except Menzbeer marmot))	0,060	0,12
1.25.	muskrat	0,045	0,9
1.26.	badger, fox	0,10	0,20
1.27.	corsac fox	0,045	0,10
1.28.	American mink	0,12	0,25
1.29.	lynx (except for Turkistan lynx)	-	0,45
1.30.	hares (tolai, grey, white)	0,010	0,045
1.31.	raccoon dog, coon, skunk bear, alpine weasel, weasel, ermine, Siberian weasel, steppe polecat, squirrel	0,020	0,35
1.32.	large toothed suslik	0,015	0,025
1.33.	wolf	0	0
1.34.	jackal	0	0
2.	birds		
2.1.	diver (red-throated, black-throated)	0,015	0,030

2.2.	wood grouse	-	0,15
2.3.	black grouse	-	0,055
2.4.	snow cock	-	0,20
2.5.	pheasant	0,020	0,060
2.6.	geese* (grey, white-fronted , bean), brant goose	0,020	0,045
2.7.	duck* (roody shelduck, shelduck, mallard, Anas formosa, European teal, grey, widgeon, pintail, garganey, shoveler, red-crested pochard, Aythya ferina, tufted duck, bluebill, long-tailed duck, common golden eye, king eider, scoter, magpie diver, red-breasted merganser, goosander)	0,010	0,020
2.8.	coot, lapwing, partridges ( white, rock ptarmigan, see-see partridge, grey, chukar, hazel hen, dove ( cushat, stock dove, rock pigeon, blue hill pigeon), turtle-dove (regular, large), sandpipers (ruff, jacksnipe, snipe, Swinhoe's snipe, pin-tailed snipe, solitary snipe, great snipe, woodcock, curlew, whimbrel, black-tailed godwit, kuaka)	0,005	0,010
2.9.	quail	0,005	0,010

\* expert for special entered into the Red Book of the Republic of Kazakhstan.

3. Rates of the levy for the use of wildlife species which are objects of fishing shall be as follows:

No.	Aquatic species	Rate of the Levy (MCI)	
		for one individual	per one kilo
1	2	3	4
1.	For commercial and scientific purposes:		
1.1.	sturgeons (beluga, sturgeon , starred sturgeon, sterlet, ship)		0,064
1.2.	herrings (caspi nordmanni , Alosa brashnikovi, black-backed), grey mullet, flatfish, sprat		0

1.3.	salmon fish (trout, lenok, grayling)		0,017
1.4.	cisco (whitefish, peled, broad whitefish), long-toed crawfish		0,012
1.5.	Caspian roach		0,004
1.6.	seal	1,93	
1.7.	large ordinary fish		
1.7.1.	grass carp, carp, asp, Volga zander, fresh-water catfish, eelpout, silver carp, pike, mudfish, pike-perch		0,013
1.8.	small ordinary fish		
1.8.1.	bream, rouch, chub, shemaya, nase, osman, ide, crucian, perch, tench, regular dace an Talasscus, redeye, silver bream, sawbelly, silvereeye, zope, sablefish, buffalo, marinka		0,004
2.	In case of a sports-amateur (recreation) fishing:		
2.1.	by taking away:		
2.1.1	large ordinary fish		0,017
2.1.2.	beluga		6,5
2.1.3.	sturgeon		5,5
2.1.4	cisco and salmon fishes		0,042
2.1.5.	small ordinary fish		0,008
2.1.6.	crawfish	0,008	
2.2.	on the basis of "catch and free":		
2.2.1.	large ordinary fish		0,1
2.2.2.	sturgeons (beluga, sturgeon, starred sturgeon, sterlet, ship)	4,97	
2.2.3.	cisco and salmon fishes		0,27
2.2.4.	small ordinary fish		0,068

4. Rates of the levy for the use of wildlife species which are used for other economic purposes (except for hunting and fishing), shall be as follows:

No.	Aquatic species	Rate of the Levy (MCI)	
		for one individual	per one kilo
1	2	3	4
1.	Mammals:		
1.1.	spotted or steppe cat	0,030	-

1.2.	forest dormouse	0,015	-
2.	Birds:		
2.1.	small, black-headed, red-headed, red-necked, great-crested, great cormorant, bittern, night-heron, common heron and purple heron	0,010	-
2.2.	aigrette	0,015	-
2.3.	oxeye, lesser and golden plover, ringed plover, little ringed plover, Mongolian dotterel, Caspian dotterel, oriental dotterel, red-capped dotterel, common dotterel, turnstone, rail, crake, little crake, marsh crake, gallinule, sandpiper, magpie, green sandpiper, wood sandpiper, greenshank, redshank, dusky redshank, marsh sandpiper, fiddler, terek, gray phalarope, red-necked phalarope, little stint, red-necked stint, long-toed stint, Temminck's stint, curlew sandpiper, dunlin, kohutapu, gnawer beetles, broad-billed sandpiper, pratincole and black-winged pratincole, ringdove, my-lady's-belt, Alpine chough, starling, goldfinch, brambling, roller, larks (comate, small, slender-billed, grey, brackish, steppe, bimaclated, white-winged, black, cornuted, forest, field, Indian), killigrew, rock thrush	0,005	-
2.4.	goshawk	0,010	-
2.5.	sparrow-hawk, scops-owl, little owl, boreal owl, long-eared owl, marsh owl, buzzard	0,045	-
3.	Reptiles:		
3.1.	steppe tortoise, fresh-water turtle	0,020	-

3.2.	steppe agama, big-eared toad agama, sunwatcher, plate-tailed gecko	0,010	-
3.3.	mamushi	0,045	-
3.4.	pallas' coluber, Eastern and sand boa	0,035	-
3.5.	lake frog	0,005	-
4.	Aquatic invertebrates:		
4.1.	brine shrimp (cysts)	-	0,045
4.2.	freshwater hoppers, daphnids	-	0,010
4.3.	leech	-	0,030
4.4.	Other aquatic invertebrates and cysts	-	0,005

**Footnote. Article 501 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 502. The procedure for the assessment and payment**

1. Amounts of the levy shall be computed by taxpayers independently on the basis of established rates and number of organisms (weight for certain species of water organisms).

2. Amounts of the levy shall be paid to the budget at the place of using wildlife. Payment shall be effected prior to obtaining the permit by way of transfers through banks and organizations carrying out certain banking transactions.

3. Paid amounts shall not be subject to refund.

**Footnote. Article 502 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010)**

### **Chapter 73. THE LEVY FOR THE USE OF FORESTS**

#### **Article 503. General provisions**

1. The levy for forestry use (hereinafter - levy) shall be collected for the followings of forestry use in the areas of the state-owned forestry resources:

- 1) Timber procurement;
- 2) Procurement of soft resin and arboreal saps;
- 3) The procurement of secondary forest materials (bark, branches, stumps, roots, leaves, buds of trees and shrubs);
- 4) Secondary forest use (hay-making, cattle grazing, Siberian deer breeding, animal breeding, setting of bee-hives and apiaries, vegetable growing, melon growing and

growing of other agricultural plants, procurement and collection of medicinal plants and technical raw materials, wild-growing fruits, nuts, mushrooms, berries and other edible forest produce, moss, forest litter and foliage, reeds);

5) Use of areas of the state-owned forest resources for the following:

Cultural, health-improving, recreational, tourist and sports purposes;

Purposes of hunting economy;

Scientific-research purposes;

**Note of the RCLII!**

**Paragraph 1 shall be supplemented by the paragraph 6) in accordance with Law of the Republic of Kazakhstan dated 25.01.2012 No. 548-IV (shall be enforced from 01.01.2013)**

2. The procedure for the use of forestry resources in the areas of the state-owned forest resources shall be established by the forestry legislative acts of the Republic of Kazakhstan.

3. The right to use forests in the areas of the state-owned forest resources shall be granted on the basis of felling tickets, and forest tickets (hereinafter - authorizations document) as issued in accordance with the procedure and deadlines established by the forestry legislative acts of the Republic of Kazakhstan.

4. State-owned forest owners: state forestry agencies at local executive bodies; state forestry agencies and governmental organizations of the authorized state body in the sphere of forestry economy; environmental institutions of the authorized state body for special protected natural territories; governmental agencies of the authorized state body for transport and authorized state body for motor roads in accordance with the departmental subordination shall quarterly no later than the 15th day of the second month following a reporting quarter, submit to the tax authorities in the place of their location the information on payers of the levy and taxable units in accordance with the form established by the authorized body.

**Footnote. Article 503 as amended by the law of the Republic of Kazakhstan dated 25.01.2012 No. 548-IV (shall be enforced upon the expiry of 10 calendar days after its first official publication).**

#### **Article 504. Payers of the levy**

1. State-owned forestry owners, individuals and legal entities who, in accordance with the procedure established by the Republic of Kazakhstan legislative act, received the right to use forest resources, shall be payers of the levy.

2. Private forest owners who exercise forestry use in areas of private forest resources, which are in their ownership or long-term land use in accordance with the land code of the Republic of Kazakhstan concerning land, for the purpose of forestation, shall not be payers of the levy.

## Article 505. Subject of taxation

Quantities of forestry use and (or) the acreage of the areas of the state-owned forestry resources which are granted for use, including those in special protected natural territories, except for the following, shall be recognized as subjects of taxation for the levy:

1) quantities of sold standing timber, when carrying out maintenance cutting for composition and shape of plantations, and also regulating its fullness in young forests (clearing, cleaning) and cutting relating to reconstruction of low-value forests and forming landscapes;

2) quantities of timber, soft resin, secondary forestry materials collected for the performance of scientific-research work.

## Article 506. Rates of the levy

1. Rates of the levy, except for those specified in paragraph 2 of this Article shall be established by the local representative authorities of the provinces, cities of Republic's status and the capital city, on the basis of computations of local executive authorities, compiled in accordance with the procedure defined by the authorized state body in the sphere of forestry.

2. Rates of the levy for standing timber sold, shall be determined on the basis of the monthly calculation index as established by the law on the Republican budget (hereinafter as the text of this Article goes - ?CI) and in effect for the first date of the relevant financial year in which the right for forest use will be created, for one dense cubic meter (m3) and are as follows:

No.	Names of Trees and Shrubs Species	Timber in relation to diameter of the trunk at top end, without bark (MCI)			Fire wood in bark (MCI)
		large (25 cm and more)	medium-size (from 13 to 24 cm)	small (from 3 to 12 cm)	
1	2	3	4	5	6
1.	Pine	1,48	1,05	0,52	0,21
2.	Shrenk spruce	1,93	1,37	0,68	0,27
3.	Siberian spruce, Silver fir	1,34	0,95	0,48	0,16
4.	Larch	1,19	0,85	0,41	0,15
5.	Cedar	2,67	1,91	0,93	0,23
6.	Juniper arboreous (archa)	1,79	1,26	0,63	0,27
7.	Oak, ash tree	2,67	1,91	0,93	0,41



8.	Black alder, maple, elm, linden	0,60	0,42	0,21	0,14
9.	Saxaul				0,60
10.	birch	0,69	0,48	0,23	0,16
11.	Aspen, willow arboreous, poplar	0,52	0,37	0,18	0,11
12.	Walnut, pistachio	3,24	2,32	1,15	0,35
13.	Apricot, white acacia, cherry-plum, hawthorn, cherry, oleaster, mountain ash, plum, bird cherry, mulberry, apple, other wood species	1,90	1,35	0,68	0,23
14.	Juniper, cedar elfin wood			0,34	0,18
15.	Tamarisk			0,3	0,25
16.	Yellow acacia, shrub willows, seabuckthorn, zhuzgun, salt tree and other bushes			0,19	0,12

3. The following coefficients shall be applied to the rates of the levy:

1) In relation to remoteness of cutting areas from general use motor ways:

Up to 10 km - 1.30;

10.1 - 25 km - 1.20;

25.1 - 40 km - 1.00;

40.1 - 60 km - 0.75;

60.1 - 80 km - 0.55;

80.1 - 100 km - 0.40;

More than 100 km - 0.30.

Remoteness of a cutting area from general use motor ways shall be determined by map materials as the shortest distance from the center of a cutting area to a road and shall be adjusted in relation to the local relief by using the following coefficients:

Plane relief - 1.1;

Hills relief or swampy area - 1.25;

Mountainous - 1.5;

2) When carrying out intermediate use cutting - 0.6;

3) when carry out selective cutting of main use - 0.8;

4) when selling timber on mountain slopes with the incline in excess of 20 degrees - 0.7.

4. Rates of the levy shall be established at 20 per cent of the rate for firewood of the relevant species as specified in paragraph 2 of this Article, for cutting remains (fire twigs) that formed when selling standing timber.

**Footnote. Article 506 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 507. The Procedure for the Assessment and Payment**

1. Amounts of the levy shall be computed by state owned forest users and specified in the authorization document.

2. Amounts of payments to be paid shall be computed as follows:

when selling standing timber - on the basis of the quantity of forestry use and rate of the levy subject to coefficients established in Article 506 of this Code;

in case of others of forestry use - on the basis of quantities and (or) acreage of such forestry use, rates of the levy for others of forestry use as established by the local representative authorities of the provinces, cities of the Republic's significance and the capital city.

3. Amounts of the levy shall be paid to the budget in the place of location of forestry use objects in accordance with the following deadlines:

1) in the case of long-term forestry use - quarterly, in equal shares of the total amount of the annual quantity of forestry use no later than the 20th day of the month following a reporting quarter;

2) in the case of short-term forestry use - prior or on the day of receiving the authorization documents. In that respect, a Footnote shall be made in the authorization document that payment has been made by specifying details of the payment document;

3) for standing timber, - quarterly in equal shares of the annual amount of the levy based upon issued felling tickets no later than the 15th day of the month following a reporting quarter.

4. When selling standing timber, soft resin, arboreal saps and secondary forestry materials the total quantity of procured timber, soft resin, arboreal saps and secondary forest materials does not coincide with the quantities (acreage) specified in the felling ticket, the state-owned forestry owners shall carry out recompilation of amounts of payments for actually procured quantities. Amounts of the levy established when recomputing shall be paid on next following date for its payment.

5. For undercut areas which are provided for cutting for a next period, and also cutting areas where cutting has not begun in the last year, payment of amounts of the levy shall be carried out in accordance with the procedure established by Article 506 of this Code.

6. Payment of amounts of the levy shall be carried out by way of bank transfers, or thorough organizations carrying out separates of banking transactions, or by paying cash into cash departments of the state-owned forestry owners on the basis strict accountability documents in accordance with the form established by the Government of the Republic of Kazakhstan.

7. Amounts of the levy received in cash shall be placed by the state-owned forestry owners in banks or organizations carrying out separates of banking transactions, no later than the following operational day in which the receipt of funds was carried out for their subsequent inclusion into the budget. Where annual receipts of cash are less than 10-times monthly calculation index, the submission of funds for the inclusion into the budget shall be carried out once in three operational days from the day when cash was taken.

8. When individuals pay the levy in cash, the identification numbers of the state-owned forestry owners shall be placed on strict accountability forms.

9. Refunds of paid amounts of the levy shall not be made, except for the cases of the Republic of Kazakhstan Government or the authorized state body in the sphere of forestry economy within its bounds of authority in accordance with the forestry laws of the Republic of Kazakhstan taking a decision on prohibiting use of forestry resources where a risk of degradation of destruction of forests emerges.

In that case, refunds of paid amounts of the levy shall be made by the tax authority in the place of its payment pursuant to the application of the payer after the payer submitting a document issued by the state-owned forestry owners, which confirms non-use of a felling ticket, forestry ticked for forestry use.

**Footnote. Article 507 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 05.07.2011 No. 452 -IV (shall be enforced from 01.01.2012).**

## **Chapter 74. THE LEVY FOR THE USE OF SPECIAL PROTECTED NATURAL TERRITORIES**

### **Article 508. General provisions**

1. The levy for the use of special protected natural territories (hereinafter - the levy) shall be collected for the use of special protected natural territories of the Republic of Kazakhstan, except for the territories of the state-owned natural monuments, state-owned natural reserves, state owned sanctuary areas, for scientific, ecological, educational, cultural awareness, training, tourist, recreation and limited economic use purposes as defined by the Republic of Kazakhstan law On Special Protected Natural Territories.

2. Environmental protection organizations shall quarterly no later than the 15th day of the month following a reporting quarter, shall submit to the tax authorities in the place of their location, information on payers of the levy and taxable objects in accordance with the form established by the authorized body.

#### **Article 509. Payers of the levy**

1. Individuals and legal entities who use protected natural territories of the Republic of Kazakhstan, are payers of the levy.

2. The following are payers of the levy:

individuals who permanently reside in populated areas and (or) have summer house land plots which are situated within the boundaries of special protected natural territories;

environmental protection organizations as defined by the law of the Republic of Kazakhstan On Special Protected Natural Territories.

#### **Article 510. Rates of the levy**

1. Rates of the levy for the use of special protected natural territories of national status shall be determined on the basis of 0.1 monthly calculation index established by the law on the Republican budget (hereinafter as the text of this Article goes - ?CI), and effective as of the 1 January of the relevant financial year, in which necessity to use special protected natural territories will emerge, for each day of presence in an special protected natural territory.

2. Rates of the levy for the use of special protected natural territories of local status shall be established by the local representative authorities of provinces, cities of republican status and the capital city pursuant to the presentations of local executive authorities of provinces, cities of republican status and the capital city.

**Footnote. Article 510 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010)**

#### **Article 511. The procedure for the assessment and payment**

1. Amounts of the levy shall be assessed by the payers independently on the basis of established rates and number of days of presence in the special protected natural territory, except for the cases specified in this paragraph. Individuals and legal entities who are owners of land plots and land users within the bounds of special protected natural territories shall make payments of the levy in the following cases:

1) when using employees - for each employee;

2) in case of presence in the special protected natural territory of stationary medical , rest, sports-recreation institutions - for each individual who is present in such

institutions. When an individual presents a document confirming payment of amounts of the levy, no more levy shall be collected.

2. Use of special protected natural territories by payers of the levy shall only be allowed if they have payment confirmation documents.

3. Amounts of the levy shall be paid in the place of location of the special protected natural territory.

4. Payment to the budget of amounts of the levy shall be carried out by way of transferring through banks or organizations carrying out separates of banking transactions, or payment in cash at check-points or other specifically equipped places as established by the environmental protection organizations defined by the legislative act of the Republic of Kazakhstan in the sphere of especially protected natural territories, on strict accountability forms in accordance with the form established by the Government of the Republic of Kazakhstan, or receipts of the cash register confirming said payments.

5. Received amounts of the levy in cash shall be submitted by the environmental protection organizations defined by the Law of the Republic of Kazakhstan On Special protected natural territories to banks or organizations carrying out separates of banking transactions, no later than the next operational day in which the collection of the money took place for their subsequent inclusion into the budget.

6. The identification number of the environmental protection organizations defined by the Law of the Republic of Kazakhstan On Special protected natural territories shall be placed on the strict accountability forms when individuals pay the levy in cash.

7. Paid amounts of the levy shall not be refunded.

8. Payment of the levy for use of wildlife resources and forest resources in special protected natural territories shall be carried out in accordance with Articles 502 and 507 of this Code.

**Footnote: Article 511 as amended by the law of the Republic of Kazakhstan dated 12.02.2009 N 133-IV (the order of enforcement see Article2); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012).**

## **Chapter 75. THE LEVY FOR THE USE OF THE RADIO-FREQUENCY SPECTRUM**

### **Article 512. General provisions**

1. Levy for the use of the radio frequency spectrum (hereinafter - the levy) shall be collected for nominal frequencies (bands, frequency ranges) of the radio-frequency spectrum (hereinafter - nominal of the radio-frequency spectrum) assigned by the authorized state body in the sphere of communications.

2. The right to use the radio-frequency spectrum shall be certified by permits issued by the authorized state body in the sphere of communications in accordance with the procedure established by the Republic of Kazakhstan legislative acts.

**Note of the RCL!**

Paragraph 3 provides change the Law of the Republic of Kazakhstan dated 18.01.2012 No. 546-IV (shall be enforced from 01.01.2013).

3. Distribution of the nominal frequencies may be carried out on a competitive basis in accordance with the Republic of Kazakhstan legislative acts. In order to ensure broadcasting for free access television and radio channels all over the territory of the Republic of Kazakhstan, radio-frequency spectrum nominal shall be allocated to the national television and radio broadcasting operator without holding a tender.

In that case, the winner, based upon the results of a tender, shall pay to the budget one-off payment in accordance with the procedure and in amounts as established by the Republic of Kazakhstan legislative acts.

4. Amounts of one-off payments which are due to the budget in accordance with paragraph 3 of this Article shall not be reckoned towards the levy.

5. The authorized territorial state bodies in the area of communications shall provide data on the payers and payment amounts, as well as on the taxation objects in the form established by the competent authority, to the tax authorities at the place of their location within the following terms:

1) on or before February 25 of the tax period in the case provided for by Article 515 paragraph 3 of this Code;

2) on or before the 25th day of the month following the month when the tax payer obtained a permission to use radiofrequency spectrum in the event specified in Article 515 of paragraph 4 of this Code.

**Footnote. Article 512 as amended by the law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

### **Article 513. Payers of the levy**

**Note of the RCL!**

Paragraph 1 provides the change of the Law of the Republic of Kazakhstan 18.01.2012 No. 546-IV (shall be enforced from 01.01.2013).

1. Individuals and legal entities who, in accordance with the procedure established by the Republic of Kazakhstan legislative acts, received the right to use the radio frequency spectrum, including for organization of digital on-air television and radio broadcasting, shall be payers of the levy.

By decision of the legal entity its structural units shall be considered as independent payers of the levy. In case when, such decision will be taken, the legal entity is obliged to notify in writing the tax authority in the place of registration of the

structural unit no later than March 10 of the tax reporting period. Simultaneously, such an entity provides information on the distribution of the annual amount of fees for each structural unit on the basis of notifications received from the competent authority in the field of communication.

2. The following are not payers of the levy:

- 1) state institutions which use the radio-frequency spectrum when exercising the main functional duties entrusted to them;
- 2) payers of the levy specified in Article 474 of this Code;
- 3) individuals who are radio-amateurs;
- 4) owners of radio stations of MW-range (27 MHz) for frequencies used for one station.

**Footnote. Article 513 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 514. Rates of the levy**

##### **Note of the RCLII!**

**Article 514 is provided by the Law of the Republic of Kazakhstan dated 18.01.2012 No. 546-IV (shall be enforced from 01.01.2013).**

Annual rates of the levy shall be established on the basis of the size of the monthly calculation index by the law on the Republican budget (hereinafter - ?CI) and effective as of the first day of the tax period, in relation to the of the radio communication, used nominal frequencies (bands of the range), sets of radio extenders, territory of use, and also population density who reside in the territory of the populated area for which communication services are rendered, as follows:

No.	Types of radio communications	Covered Area	Rate of payment (MCI)
1	2	3	4
1.	Paging radio systems (frequency channel of 25 kHz wide)	Province, Cities of Astana, Almaty	10
2.	Trunk communications (for a channel 25 kHz reception / 25 kHz transmission wide )		
1)		Cities of Astana, Almaty	140
2)		populated area with a population number in excess of 50 thousand	80
3)		other administrative territorial units (town of district status, district,	10

		settlement, aul (village), aul (rural) district)	
3.	Radio communication in the USW-range (for a duplex channel 25 kHz reception / 25 kHz wide)		
1)		Cities of Astana, Almaty	80
2)		populated area with population in excess of 50 thousand	60
3)		other administrative territorial units (town of district status, district, settlement, aul (village), aul (rural) district)	15
4.	Radio communication in the USW-range (for a simplex channel 25 kHz wide)		
1)		Cities of Astana, Almaty	30
2)		populated area with population in excess of 50 thousand	20
3)		other administrative territorial units (town of district status, district, settlement, aul (village), aul (rural) district)	10
5.	SW communication (for one channel) output power of the transmitter: 2. up to 50 Wt; 3. in excess of 50 Wt;	Cities of Astana, Almaty	10 20
6.	Radio extenders (per channel)	a province, Cities of Astana, Almaty	2
7.	Cellular communication (for a band of frequencies 200 kHz reception / 200 kHz transmission wide)	a province, Cities of Astana, Almaty	1 100
7-1.	Cellular communication of third generation and mobile communication of fourth generation (for a radio channel of 2 MHz reception / 2 MHz transmission wide)	a province, Cities of Astana, Almaty	2 200
8.	Global personal mobile satellite communication (		20



	duplex band of frequencies 100 kHz reception / 100 kHz transmission wide)	Republic of Kazakhstan	
9.	Satellite communication with HUB-technology ( band of frequencies 100 kHz reception / 100 kHz transmission wide)	Republic of Kazakhstan	30
10.	Satellite communications without HUB technology ( for used frequencies of one station)	Republic of Kazakhstan	100
11.	Radio relay lines (for a duplex trunk on one flight)		
1)	Local	district, town, settlement, aul (village), aul (rural) district	40
2)	Zonal and main	Republic of Kazakhstan	10
12.	Wireless radio access systems (for a duplex channel 25 kHz reception / 25 kHz transmission wide)		
1)		populated area with population in excess of 50 thousand	25
2)		other administrative territorial units (town of district status, district, settlement, aul (village), aul (rural) district)	2
13.	Wireless radio access systems using NSS-technologies (for a duplex channel 2 MHz reception / 2 MHz transmission wide)		
1)		Cities of Astana, Almaty	140
2)		populated area with population in excess of 50 thousand	70
3)		other administrative territorial units (town of district status, district, settlement, aul (village), aul (rural) district)	5
14.	Cable-broadcast television (for a bank of frequencies of 8 MHz)		

1)		populated area with population in excess of 200 thousand	300
2)		populated area with population from 50 to 200 thousand	135
3)		town of district status with the population up to 50 thousand, district	45
4)		other administrative territorial units (town of district status, district, settlement, aul (village), aul (rural) district)	5
15.	Sea radio communications (radio modem, on-shore communications, telemetry, radio-location etc.), for one channel	A province	10

#### Footnote.

When using the radio frequency spectrum during a period of test operation, contests, exhibitions and other events for up to six months inclusive, the levy shall be established in relation to the of the radio communication and coverage area of the radio spectrum and power of a radio electronic transmitting device, in amounts related to the time of its actual use, but not less than 1/12 of the annual rate of payment.

In the event of using technologies with a duplex channel with the different from that specified in the rates of this Article, the rates of the levy shall be determined on the basis of the specific weight of the duplex channel actually used by the payer compared to the duplex channel as specified amongst the rates of this Article.

When using a wide-range signal (NSS) technologies, the levy shall be collected for a range 2 MHz for reception / 2 MHz for transmission wide.

Footnote. Article 514 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 26.11.2010 No. 356-IV (shall be enforced from 01.01.2011).

#### **Article 515. The procedure for the assessment and payment**

##### Note of the RCLII!

Paragraph 1 is provided in the wording of the Law of the Republic of Kazakhstan 18.01.2012 No. 546-IV (shall be enforced from 01.01.2013).

1. Amounts of the levy shall be assessed by the authorized state body in the sphere of communications in accordance with the technical parameters, including transmitting power of a radio electronic transmitting device, specified in the permit documents, on

the basis of annual rates of the levy in relation to the of radio communication in the coverage area of the radio-frequency spectrum.

2. Where the period of use of the radio-frequency spectrum in a reporting tax period is less than one year, amounts of payment shall be determined by dividing amount of payment assessed on the year, by twelve and multiplying by the number of months of using the radio-frequency spectrum in a given year.

3. The authorized state bodies in the sphere of communications shall issue notices by specifying annual amounts of the levy and forward them to the payers of the levy no later than the 20th February of current reporting period.

4. In case of obtaining a permit document certifying the right to use radio-frequency spectrum, after dates specified in paragraph 3 of this Article, the authorized state body in the sphere of communications shall forward a notice to the taxpayer by specifying amount of levy, no later than the 20th day of the month following a month of the receipt by the taxpayer of the permit for the use of the radiofrequency spectrum.

5. Amounts of annual payments shall be paid to the budget in the place of location of the payer of the levy, in equal installments no later than the 25th March, 25th June, 25 September and 25th December of current year.

6. When receiving a permit document certifying the right to use radio-frequency spectrum after the time established by paragraph 3 of this Article, the first regular date following the date of receipt of the permit document, shall be the date of the payment.

#### **Article 516. The tax period**

The tax period shall be determined in accordance with Article 148 of this Code.

#### **Article 517. Tax accounts**

**Footnote. article 517 as amended by the law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV shall be enforced from 01.01.2012).**

### **Chapter 76. THE LEVY FOR PROVIDING LONG-DISTANCE AND (OR) INTERNATIONAL TELEPHONE AS WELL AS CELLULAR COMMUNICATIONS**

#### **Article 518. General provisions**

1. The levy for providing long-distance and (or) international telephone as well as cellular communications (hereinafter - the levy) shall be collected for the right to provide the following:

- 1) long-distance and (or) international telephone communication;
- 2) cellular communications.

2. The right of providing international and (or) international telephone as well as cellular communications (hereinafter - the right) shall be certified with permits issued by the authorized state body in the sphere of communications in accordance with the procedure established by the legislative acts of the Republic of Kazakhstan.

3. The territorial authorized governmental agencies in the area communications shall submit the information about the payers and amounts of payments, as well as about the objects of taxation to the tax authorities at the place of their location in compliance with the form established by the authorized agency, within the following terms:

1) on or before February 25 of the tax period in the event provided for by Article 521 paragraph 3 of this Code;

2) on or before the 25th day of the month following the month of obtaining by the taxpayer of the permission for provision of intercity and/or international telephone communications services, as well as cellular communications, in the event set forth by Article 521 paragraph 4 of this Code.

**Footnote. Article 518 as amended by the Law of the Republic of Kazakhstan 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 519. Payers of the levy**

Individuals and legal entities who are operators of long-distance and (or) international telephone and also cellular communications who obtained the right in accordance with the procedure established by the Law of the Republic of Kazakhstan On Communications, shall be payers of the levy.

#### **Article 520. Rates of the levy**

Annual rates of the levy shall be established by the Government of the Republic of Kazakhstan.

#### **Article 521. The procedure for the assessment and payment**

1. Amounts of payment shall be assessed by the authorized state body in the sphere of communications on the basis of income of the payers from rendering the services of electronic communications (telecommunications) on the basis of annual rates of payment.

2. If the period of providing long-distance and (or) international telephone as well as cellular communications in a reporting tax period is less than one year, amounts of payments shall be determined by way of dividing amounts of the levy assessed on the

year by twelve and multiplying by the relevant number of months of providing long-distance and (or) international telephone as well as cellular communications in a given year.

3. The authorized state body in the sphere of communications shall issue notices by specifying annual amounts of payments and forward them to the taxpayers no later than the 20th February of current reporting period.

4. In case of receiving a permit document certifying the right, after the time specified in paragraph 3 of this Article, the authorized state body in the sphere of communications shall forward to the payer a notice specifying the amount of the levy no later than the 20th day of the month following a month of receipt by the taxpayer of the permit for providing long-distance and (or) international telephone as well as cellular communications.

5. Annual amounts of the levy shall be paid to the budget in the place of location of the payer of the levy in equal installments no later than the 25th March, 25th June, 25th September and 25th December of current year.

6. When receiving a permit document certifying the right, after the date established by paragraph 3 of this Article, the first regular date following the date of receipt of the permit document shall be recognized as the first date of payment.

#### **Article 522. The tax period**

The tax period shall be determined in accordance with Article 148 of this Code.

#### **Article 523. Tax report**

**Footnote.** Article 523 is excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

### **Chapter 77. THE LEVY FOR THE USE OF NAVIGABLE WATERWAYS**

#### **Article 524. General provisions**

1. Payment for use of navigable waterways (hereinafter referred to as the "Payment") shall be collected for use of navigable waterways of the Republic of Kazakhstan.

2. Competent governmental transport authority shall submit information about the payers of the payment to the tax authority at the place of its location quarterly on or before the 15th day of the month following the reporting quarter in the format established by the competent authority.

**Footnote.** Article 524 is in the wording of the law of the Republic of Kazakhstan dated 15.07.2011 No. 461-IV (shall be enforced upon the expiry of 6 months after its first official publication).

## **Article 525. Payers of the levy**

1. Individuals and legal entities that use navigable water ways of the Republic of Kazakhstan are payers of the levy.
2. State institutions shall not be recognized as payers of the levy.

## **Article 526. Rates of the levy**

Rates of the levy are determined on the basis of 0.26 monthly calculation index established by the law on the Republican budget effective as of the 1 January of the relevant financial year, in which the right to use navigable waterways, per 1 gross register ton emerged.

**Footnote.** Article 526 is in the wording of Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).

## **Article 527. Procedure for assessment, payment, and submission of tax reports**

**Footnote.** The title is in the wording of the Law of the Republic of Kazakhstan dated 15.07.2011 No. 461-IV (shall be enforced upon the expiry of 6 months after its first official publication).

1. Amounts of the levy are determined on the basis of the rate of the levy, gross registered tonnage in register tons and actual time of use of navigable water ways, but not less than the amount of payment per one calendar month.

2. Amounts of monthly payments are determined by way of division of the assessed annual amounts of the levy for the navigation period, as established by the authorized state body in the sphere of transport for current year.

3. Amounts of the levy due to the budget for current month shall be paid no later than the 25th day of the following month.

4. *Excluded by the Law of the Republic of Kazakhstan dated 15.07.2011 No. 461-IV (shall be enforced upon the expiry of 6 months after its first official publication).*

5. Foreigners and stateless persons, nonresident foreign legal entities in the cases of occasional ship calls shall pay the levy to the budget in amounts of the monthly rate. In the event that they are in navigable waterways of the Republic of Kazakhstan for a period more than one month, the levy shall be paid to the budget in accordance with the procedure established by this Article.

6. Amounts of the levy shall be paid to the budget in the place of location of a payer of the charge.

7. Paid amounts shall not be refunded.

8. Payers of the payment shall submit a declaration of payment to tax authorities for the place of use of navigable waterways on or before the 31st day of March of the year following the reporting year.

Footnote. Article 527 as amended by the Law of the Republic of Kazakhstan dated 15.07.2011 No. 461-IV (shall be enforced upon the expiry of 6 months after its first official publication); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012)

## **Chapter 78. THE LEVY FOR THE PLACEMENT OF OUTDOOR (VISUAL) ADVERTISEMENTS**

### **Article 528. General provisions**

1. The levy for the placement of outdoor (visual) advertisements (hereinafter - the levy) shall be collected for the placement of outdoor (visual) advertisements on facilities for stationary placement of advertisements in the side strip of automobile roads of general use, in the open space, outside buildings in populated areas in the territory of the Republic of Kazakhstan and on transport vehicles.

2. Placement of outdoor (visual) advertisements (hereinafter - advertisement) are understood as follows:

1) when placing advertisements in the side strip of international and national motor roads of general use on the basis of a document issued by the authorized state body on motor roads (hereinafter - road authority), and when placing advertisements in the side strip of regional or local motor roads of general use on the basis of a document issued by the local executive body of the region or district for certain period in accordance with the procedure established by the legislative acts of the Republic of Kazakhstan;

2) when placing advertisements in populated areas and also on transport vehicles on the basis of permits issued by local executive authorities in accordance with the procedure established by the Republic of Kazakhstan legislative acts.

It is prohibited to place advertisements without appropriate documents.

3. If an appropriate permit document is not available, the actual placement of objects of visual (outdoor) advertisements, shall be recognized as basis for the collection and payment to the budget of amounts of the levy.

4. The road authorities and local executive authorities shall monthly no later than the 15th day of the month, present to the tax authorities in the place of their location, information on payers of the levy and taxable objects in accordance with the form established by the authorized body.

Footnote. Article 528 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 28.12.2010 No. 369-IV (shall be enforced from 01.01.2011).

### **Article 529. Payers of the levy**

1. Individuals (in particular individual entrepreneurs) and legal entities that place advertisements shall be recognized as payers of the levy.

By decision of the legal entity its structural units shall be considered as independent payers of the levy. If such decision is taken, the legal entity is obliged to notify in writing the tax authority in the place of registration of the structural unit no later than ten days before payment due date. Simultaneously, such an entity provides information on the distribution of the annual amount of fees for each structural unit.

2. The state authorities of the Republic of Kazakhstan shall not be payers of the levy on objects of outdoor (visual) advertisements which are placed in connection with their performance of the functional duties entrusted to them.

**Footnote. Article 529 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010);**

### **Article 530. Rates of the levy**

1. Rates of the levy are determined on the basis of the size of the monthly calculation index as established by the law on the Republican budget (hereinafter as the text of this Article goes - ?CI) and effective as of the first day of the relevant calendar month, in which outdoor (visual) advertisement is placed.

2. Monthly rates of the levy for the placement of outdoor (visual) advertisements in the side strip of motor roads of general use of the Republic's status with the area of the advertising facility's face up to three square meters shall be as follows:

No.	Category of Roads	Rate of the Levy (MCI)
1	2	3
1.	City approaches	25
2.	I, II	20
3.	III	10
4.	IV	5

When establishing mega size advertising information, monthly rates of the levy shall be increased in proportion to increase of the sphere of the face (board) of an advertisement to three square meters.

3. Basic monthly rates of the levy in relation to advertisements which are placed:

1) in the side strip of motor roads of general use of local status and placed in populated areas, shall be established on the basis of the area and place of location of such advertisements:

No.	Type of Advertisement	Rate of the Levy on fixed structures (for one side) (MCI)	
		Cities of the Republic's status	Cities of the province status
1	2	3	4



1.	Signs, signboards, information boards with area of up to 2 sq. M (per one Object)	2	1
2.	Lightboxes (city format)	3	2
3.	Information promotional objects with area:		
3.1.	from 2 to 5 sq. m	5	3
3.2.	from 5 to 10 sq. m	10	5
3.3.	from 10 to 20 sq. m	20	10
3.4.	from 20 to 30 sq. m	30	15
3.5.	from 30 to 50 sq. m	50	20
3.6.	from 50 to 70 sq. m	70	30
3.7.	above 70 sq. m	100	50
4.	Roof neon advertisement structures (light panels or three-dimensional neon letters):		
4.1.	up to 30 sq.m	30	20
4.2.	above 30 sq.m	50	30
5.	Advertisement on stalls, tents, pavilions, sheds, umbrellas, banners, flags:		
5.1.	up to 5 sq.m	1	1
5.2.	from 5 to 10 sq.m	2	1
5.3.	above 10 sq.m	3	2
6.	Advertisement at temporary kiosks and pavilions:		
6.1.	up to 2 sq.m	2	1
6.2.	from 2 to 5 sq.m	2	1
6.3.	from 5 to 10 sq.m	3	2
6.4.	Above 10 sq.m	8	4
7.	Remote advertising structures (pillars)	10	5

2) on transport vehicles shall be established on the basis of area and place of location of an advertisement:

No.	Type of Advertisement	Rate of the Levy on mobile structures (MCI)	
		Cities of the Republic's status	Cities of the province status
1	2	3	4
1.	Advertisement on external side of the vehicle (per unit ):		

1.1.	on buses, trolley-buses, trams, trucks, special cars (with load capacity over 1.5 ton), self-propelled machines and mechanisms	8	4
1.2.	on minibuses, taxis, cars (with load capacity of up to 1.5 ton)	3	2
2.	Advertisement on structures installed on a vehicle (panels, boards, lightboxes, etc.) per one side:		
2.1.	up to 2 sq.m	3	2
2.2.	from 2 up to 5 sq.m	15	10
2.3.	from 5 to 10 sq. m	35	25
2.4.	from 10 to 20 sq.m	50	25
2.5.	from 20 to 40 sq.m	60	45
2.6.	above 40 sq.m	80	40

The local representative authorities of the provinces, cities of Republic's status, capital city with regard to advertisements which are placed in the side strip of motor roads of general use of local status, and in populated areas, have the right to increase the size of basic rates of the levy no more than by factor of two depending the place where such advertisement is located.

**Footnote. Article 530 is in the wording of the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010)**

#### **Article 531. The procedure for the assessment and payment**

1. Amounts of the levy to be collected shall be assessed on the basis of the rates of the levy and actual time of exposure of advertisements as specified in the permit document, but not less than the amount of the levy for one calendar month.

2. Amounts of the levy to be paid to the budget for one calendar month shall be paid no later than the 25th day of the following month.

3. When receiving permit documents, payers of the levy shall present to the road authority or local executive authorities a document confirming the payment to the budget of amounts of the levy for the first month of exposure of the advertisement.

4. Amounts of payments shall be paid to the budget in the place of location of an outdoor (visual) advertisement, as specified in the permit document, except for transport vehicles, on which the levy shall be paid to the budget in the place of their state registration.

5. Paid amounts shall not be refundable.

## **Chapter 79. STATE FEE**

### **§1. State fee**

#### **Article 532. General provisions**

State fee is an obligatory payment which is paid for the execution of legally-material acts and (or) issuing documents by the authorized state bodies or officials. For the purposes of this Chapter, issuing of documents (their copies, duplicates) shall be equated to legally-material acts.

#### **Article 533. Payers of state fee**

Physical and legal entities who petition in relation to execution of legally-material acts and (or) issuing of documents to the authorized state bodies or to official person, shall be recognized as payers of state fee.

Structural units may be considered as independent payers of state fees in the event that the relevant authorized bodies perform any legally significant actions for the benefit of such structural unit.

**Footnote. Article 533 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 534. Subjects to taxation**

1. State fee shall be collected in the following cases:

1) Lawsuit applications, applications for special claim processing, applications (complaints) in cases of special processing, applications for passing a court order, applications for issuing a duplicate executive writ, applications for issuing executive writs for enforced implementation of decisions of third- party (arbitration) tribunals and foreign courts, applications for a repeat issue of copy court acts, executive writs and other documents;

2) Execution of notarial acts and also issuing copies (duplicates) of notarized documents;

3) Registration of civil status records, and also for issuing to citizens of certificates and repeat certificates on registration of civil status records and certificates on amendments, additions to, corrections and restoration of civil status record entries;

4) Execution of documents for the right to exit abroad for permanent place of residence and invitation to the Republic of Kazakhstan of persons from other states, and also for introduction of amendments to those documents;

5) Issuing in the territory of the Republic of Kazakhstan of visas to passports of foreigners and stateless persons or documents substituting for those for the right to exit the Republic of Kazakhstan and entry the Republic of Kazakhstan;

6) Execution of documents on acquisition of the Republic of Kazakhstan citizenship, restoration of the Republic of Kazakhstan citizenship and termination of the Republic of Kazakhstan citizenship;

7) Registration of place of residence;

8) Issuance of hunter certificates and their annual registration;

**Note of the RCLII!**

**Sub-paragraph 9) provides the change of the Law of the Republic of Kazakhstan dated 25.01.2012 No. 548-IV (shall be enforced from 01.01.2013).**

9) Issuance of permits for export and import of rare and endangered species of plants, animals and sturgeon fish, and also their parts and derivate;

10) Issuance of personal identification documents;

11) Issuance of permits for storage or storage and wear, transportation, import into the territory of the Republic of Kazakhstan and export from the Republic of Kazakhstan of arms and ammunitions therefor;

12) Registration and re-registration of each unit of civil, service arms of physical and legal entities (except for knives, hunting, signal arms, mechanical sprays, sprays and other devices equipped with tear gas or irritants, pneumatic arms with the muzzle energy not more than 7.5 J and caliber up to 4.5 mm inclusive);

13) Fixation by the state bodies authorized by the Republic of Kazakhstan Government of apostil on official documents executed in the Republic of Kazakhstan in accordance with international treaties ratified by the Republic of Kazakhstan;

**Note of the RCLII!**

**Sub-paragraph 14) as amended by the law of the Republic Kazakhstan dated 27.04.2012 No. 15-V (shall be enforced from 01.01.2013)**

14) Issuance of driver licenses, tractor operator licenses, certificates on state registration of mechanical transport vehicles, governmental registration number plates, international certificate of technical inspection;

15) Execution by the authorized body in the sphere of intellectual property of legally-material acts as specified in Article 539 of this Code.

The fixed percentage rates of state fee shall be computed on the basis of the monthly calculation index as established by the law on the Republican budget and effective as of the date of payment of state fee (hereinafter - ?CI), unless otherwise specified by this Code.

**Footnote. Article 534 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 24.01.2011 No. 399-IV (the order of enforcement see Article2); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

**Article 535. Rates of state fee in courts**

1. State fee shall be collected in the following amounts, on lawsuit applications, applications for special claim processing, applications (complaints) in cases of special processing, applications for passing a court order, applications for issuing a duplicate executive writ, applications for issuing executive writs for enforced implementation of decisions of third- party (arbitration) tribunals and foreign courts, applications for a repeat issue of copy court acts, executive writs and other documents:

1) On lawsuit applications of property nature, as follows:

Physical persons - 1 per cent of amount of claim;

Legal entities - 3 per cent of amount of claim;

2) On complaints on unlawful acts of governmental authorities and their officials, infringing rights of physical persons - 30 per cent;

3) On complaints on unlawful acts of governmental authorities and their officials, infringing rights of legal entities, - 500 per cent;

4) Applications challenging notices relating to acts of tax audits, as follows:

Individual entrepreneurs and peasant and farmer holdings - 0.1 per cent of amount in dispute of taxes and other obligatory payments to the budget (including penalties), as specified in the notice;

Legal entities - 1 per cent of amount in dispute of taxes and other obligatory payments to the budget (including penalties), as specified in the notice;

5) on lawsuit applications for divorce - 30 per cent.

In cases of division of property in divorce cases, duty shall be computed on the basis of the value of the claim in accordance with sub-paragraph 1) of this paragraph;

6) on lawsuit applications for division of property in divorces with persons who in accordance with the established procedure are recognized as missing or incapable due to a mental disease or mental weakness, or with persons sentenced to deprivation of freedom for a period longer than three years, - in accordance with sub-paragraph 1) of this paragraph;

7) on lawsuit applications for update or termination of an agreement on leasing of a dwelling place, for extending periods of entry into inheritance, for alleviation of property restraint and on other lawsuit applications of non-property nature, or those which are not subject to valuation - 50 per cent;

8) on applications for special claim processing, applications (complaints) relating to cases of special processing, except for those indicated in sub-paragraphs 2), 3), 4) and 13) of this paragraph - 50 per cent;

9) on applications for appeal of decisions of third party tribunals, petitions for abolition of arbitration decisions - 50 per cent of the amount of state fee which is collectible in case of filing a lawsuit application of non-property nature to a court of the Republic of Kazakhstan, and in cases of property disputes - of amount of state fee which is collectible when filing a lawsuit application of property nature in a court of

the Republic of Kazakhstan and computed on the basis of the amount which is appealed by the claimant;

10) on applications for passing a court order - 50 per cent of the rates of state fee specified in sub-paragraph 1) of this paragraph;

11) on applications for issuing a duplicate executive writ, applications for issuing executive writs for enforced implementation of decisions of third- party (arbitration) tribunals and foreign courts - 500 per cent;

12) on applications for repeat issue of copy (duplicates) of court decisions, sentences, rulings, other court decrees, and also copies of other documents from case-files as issued by courts pursuant to requests of the parties and other persons participating in cases, - 10 per cent for each document, and also 3 per cent for each prepared page;

13) on applications for recognition of legal entities as bankrupts - 500 per cent.

2. For lawsuit applications containing simultaneously claims of property and non-property nature, state fee shall be collected lump sum as established for lawsuit applications of property nature and for lawsuit applications of non-property nature.

**Footnote. Article 535 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012); dated 17.02.2012 No. 564-IV (shall be enforced upon the expiry of 10 calendar days after its first official publication).**

#### **Article 536. Rates of state fee for the execution of notarial acts**

For the execution of notarial acts, state fee shall be collected in the following amounts:

1) for certifying agreements on alienation of real estate (land plots, dwelling places, dachas, garages, structures and other real estate) in urban areas, as follows:

Where one party is a legal entity - 1000 percent;

Worth of up to 30 monthly calculation indices, as follows:

To children, spouse, parents, brothers and sisters, grand children - 100 per cent;

To other persons - 300 per cent;

Worth of more than 30 monthly calculation indices, as follows:

To children, spouse, parents, brothers and sisters, grand children - 500 per cent;

To other persons - 700 per cent;

Where a transaction is committed for the purposes of purchase of real estate at the expense of funds received from a mortgaged housing loan, - 200 per cent;

2) for certifying agreement on alienation of real estate (land plots, dwelling places, dachas, garages, structures and other real estate) in rural areas, as follows:

Where one party is a legal entity - 100 percent;

To children, spouse, parents, brothers and sisters, grand children - 50 per cent;

To other persons - 70 per cent;

3) For certifying agreements for alienation of motor transport vehicles:

Where one party is a legal entity - 700 per cent;

To children, spouse, parents, brothers and sisters, grand children - 200 per cent;

To other persons - 500 per cent;

4) for certifying lease, loan (except for mortgaged housing loans), advance, leasing, works, marriage contracts, division of property which is in joint ownership, division of heritage, alimony agreements, foundation agreements - 500 per cent;

5) for certifying mortgaged housing loan agreements - 200 per cent;

6) for certifying wills - 100 per cent;

7) for issuing certificates on inheritance rights - 100 per cent;

8) for issuing certificates on ownership rights to a share in joint property of spouses and other persons who own property in accordance with the right of common shared ownership, - 100 per cent;

9) for certifying powers of attorney for the right to use and dispose of assets - 50 per cent;

10) for certifying powers of attorney for the right to use and drive transport vehicles without a right to sell - 100 per cent;

11) for certifying powers of attorney for sale, giving as gift, exchange of transport vehicles - 200 per cent;

12) for certifying other powers of attorney:

for individuals - 10 per cent;

for legal entities - 50 per cent;

13) for taking steps associated with the protection of heritage property - 100 per cent;

14) for the execution of captain's protest - 50 per cent;

15) for certifying the accuracy of copy documents and extracts from documents (per page):

for individuals - 5 per cent;

for legal entities - 10 per cent;

16) for certifying the accuracy of signatures on documents and also the authenticity of translation of documents from one language

into another (per document):

for individuals - 3 per cent;

for legal entities - 10 per cent;

17) for translation of applications of individuals and legal entities to other physical and legal entities - 20 per cent;

18) for notarization of certified copies of documents - 20 per cent;

19) for issuing duplicates - 100 per cent;

20) for certifying the authenticity of signatures when opening bank accounts (per document):

for individuals - 10 per cent;

for legal entities - 50 per cent;

21) for certifying agreements for pledging real estate, claim rights and mortgage certificates on mortgaged housing loans - 200 per cent; for certifying other pledged agreements - 700 per cent;

22) for the execution of protest of a bill and for certifying non-cashing of a cheque - 50 per cent;

23) for storage of documents and securities - 10 per cent per month;

24) for certifying suretiship and guarantee agreements - 50 per cent;

25) for the execution of other notarial acts specified by other legislative acts of the Republic of Kazakhstan - 20 per cent.

**Footnote. Article 536 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012);**

#### **Article 537. Rates of state fee for registration of civil status records**

1. For the registration of civil status records, for issuing to citizens of repeat certificates on registration of civil status records, and also certificates in connection with amendment, addition to, correction and restoration of entries on acts of birth, marriage, divorce, death, state duty shall be collected as follows:

1) for registration of conclusion of a marriage - 100 per cent;

2) for registration of dissolution of a marriage as follows:

pursuant to mutual consensus of spouses who have not minority age children, - 200 per cent;

on the basis of a court decision - 150 per cent (from one or both spouses);

on the basis of a court decision with persons who in accordance with the established procedure are recognized as missing or incapable due to a metal disease or mental weakness, or persons sentenced for commission of a crime to be deprived of freedom for a period longer than three years, - 10 per cent;

3) for registration of a change of surname, name or patronymic, nationality or sex - 200 per cent;

for each document of the spouse, children, issued on that basis - 50 per cent;

4) for issuing certificates due to amendment, additions to, correction and restoration of entries of acts on birth, marriage, termination of marriage, death - 50 per cent;

5) for issuing repeat certificates on registration of civil status records - 100 per cent

;



6) for registration of adoption of a son (a daughter) by foreign citizens - 200 per cent;

7) for issuing extracts to citizens of the Republic of Kazakhstan concerning registration of civil status records - 30 per cent;

8) for obtaining on demand certificates on registration of civil status records from CIS countries - 50 per cent;

9) for obtaining on demand certificates on registration of civil status records from foreign states, except for the CIS countries - 100 per cent.

**Footnote. Article 537 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012);**

**Article 538. The rates of state fee when processing exits abroad, acquisition of citizenship of the Republic of Kazakhstan, restoration of citizenship of the Republic of Kazakhstan or termination of citizenship of the Republic of Kazakhstan**

For the execution of acts associated with the acquisition of the Republic of Kazakhstan citizenship, restoration of the Republic of Kazakhstan citizenship or termination of the Republic of Kazakhstan citizenship, and also entry into the Republic of Kazakhstan or exit abroad, state fee shall be collected in accordance with the following amounts:

1) for issuing or extending to foreigners and stateless persons visas for the following rights:

exit from the Republic of Kazakhstan - 50 per cent;

entry into the Republic of Kazakhstan and exit from the Republic of Kazakhstan - 100 per cent;

2) for issuing to foreigners and stateless persons of visas for the right of multiple crossing the frontier - 200 per cent;

3) for introduction of amendments to document granting the right to exit from the Republic of Kazakhstan and entry into the Republic of Kazakhstan to citizens of the Republic of Kazakhstan, and also foreigners and stateless persons who permanently reside in the territory of the Republic of Kazakhstan, - 100 per cent;

4) for issuing to citizens of the Republic of Kazakhstan, foreigners and stateless persons documents concerning invitations from abroad - 50 per cent for each invitee;

5) for formulation of documents for the acquisition of the Republic of Kazakhstan citizenship, restoration of citizenship of the Republic of Kazakhstan, termination of citizenship of the Republic of Kazakhstan - 100 per cent;

6) for issuing instead of lost or damaged documents concerning invitation to the Republic of Kazakhstan - in amounts as specified accordingly in sub-paragraphs 1), 2), 4) of this Article.

**Article 539. Rates of state fee for the execution of legally-material acts by the authorized state body in the sphere of intellectual property**

For the execution of legally-material acts, the authorized state body in the sphere of intellectual property shall collect state fee in the following amounts:

- 1) for issuing an innovation patent, patent, certificate - 100 per cent;
- 2) for issuing certificates on a high renown mark - 100 per cent;
- 3) for registration of re-assignment, pledge, licensing, sub-licensing agreements concerning use of industrial property objects, - 150 per cent;
- 4) for certifying patent attorneys - 1 500 per cent;
- 5) for issuing certificates on registration of a patent attorney - 100 per cent.

**Article 540. Rates of state fee for the execution of other acts**

For the execution of other acts, state fee shall be collected in the following amounts :

- 1) for registration of residence address - 10 per cent;
- 2) for issuing hunter certificates and for their annual registration - 10 per cent;

**Note of the RCLI!**

**Sub-paragraph 3) provides amendments by the Law of the Republic of Kazakhstan dated 25.01.2012 No. 548-IV (shall be enforced from 01.01.2013).**

- 3) for issuing permits for import and export of rare and endangered species of plants, animals and sturgeon fish, as well as their parts and derivates - 200 per cent;

- 4) for issuing the following:

passport of a Republic of Kazakhstan citizen, identification document of a stateless person - 400 per cent;

personal identification document of a Republic of Kazakhstan citizen, residence permit of a foreigner in the Republic of Kazakhstan, temporary personal identification document - 20 per cent;

- 5) for issuing:

to legal entities of the following:

permit for import of civil, service arms and ammunitions therefor - 200 per cent;

permit for export of civil, service arms and ammunitions therefor - 200 per cent;

permit for storage of civil, service arms and ammunitions therefor - 100 per cent;

permit for storage and carry of civil, service arms and ammunitions therefor - 100 per cent;

permit for transportation of civil, service arms and ammunitions therefor - 200 per cent;

permit for second-hand sales of civil, service arms and ammunitions therefor - 100 per cent;

to individuals of the following:

permit for import of civil arms and ammunitions therefor - 50 per cent;

permit for export of civil arms and ammunitions therefor - 50 per cent;

permit for purchase of civil arms and ammunitions therefor - 50 per cent;

permit for storage of civil arms and ammunitions therefor - 50 per cent;

permit for storage and carry of civil arms and ammunitions therefor - 50 per cent;

permit for transportation of civil arms and ammunitions therefor - 10 per cent;

permit for second-hand sales of civil arms and ammunitions therefor - 50 per cent;

6) for registration and re-registration of each unit of civil, service arms of individuals and legal entities (except non-fire arms, hunting, starting guns, mechanical sprays, sprays and other devices equipped with tear gas or irritants, pneumatic arms with the muzzle energy not more than 7.5 J and caliber up to 4.5 mm inclusive) - 10 per cent;

7) for the introduction of amendments to personal identification documents;

8) for the fixation of the apostil by the state body authorized by the Republic of Kazakhstan Government on official documents, executed in the Republic of Kazakhstan in accordance with international agreements ratified by the Republic of Kazakhstan, - 50 per cent per document;

**Note of the RCLI!**

**Subparagraph 9) as amended by Law of the Republic of Kazakhstan dated 27.04.2012 No. 15-V (shall be enforced from 01.01.2013).**

9) for issuing the following:

driver licence - 125 per cent;

certificate on state registration of transport vehicles - 125 per cent;

state registration number plates for a car - 280 per cent;

state registration number plates for motor transport vehicles, trailer for a car - 140 per cent;

state registration (transit) number plates for a transit drive of a car - 35 per cent;

international certificate of technical inspection - 50 per cent;

10) for issuing the following:

certificate of a tractor driver - 50 per cent;

state registration number plates for tractors and self-propelled chassis and machines made on their basis, trailers for hem (including trailers with special built-in equipment), self-propelled agricultural, ameliorative and road building construction machines and mechanisms- 100 per cent;

technical passports for the state registration of tractors and self-propelled chassis and machines made on their basis, trailers for hem (including trailers with special built-in equipment), self-propelled agricultural, ameliorative and road building construction machines and mechanisms - 50 per cent.

Footnote. Article 540 as amended by the Law of the Republic of Kazakhstan dated 24.01.2011 No. 399-IV (the order of enforcement see Article 2).

**Article 541. Exemption from payment of state fee in courts**

The following shall be exempt from payment of state fee in courts of:

- 1) plaintiffs - in relation to claims for exacting amounts of work remuneration and other claims relating to employment activities;
- 2) plaintiffs who are authors, performers and organizations managing their property rights on a collective basis - in relation to claims ensuing from copyright and related rights;
- 3) plaintiffs who are authors of works of industrial property - in relation to claims ensuing from invention rights, useful model or industrial sample rights;
- 4) plaintiffs - in relation to claims for exacting alimony;
- 5) plaintiffs - in relation to claims for compensation for harm caused by injury or other harm to health, and also death of breadwinner;
- 6) plaintiffs - in relation to claims for compensation of material harm caused by a crime;
- 7) individuals and legal entities, except for persons who have no relevance to a case , - for issuing to them of documents in connection with criminal cases and alimony cases;
- 8) plaintiffs - in relation to claims for exacting in favour of the state of funds towards compensation for harm caused to the state by violation of the environmental protection legislative acts of the Republic of Kazakhstan;
- 9) vocational schools and vocational lyceums providing training of qualified personnel and blue-collar worker personnel of higher qualifications, - in relation to claims for exacting costs incurred by the state for the maintenance of trainees who left educational establishments or were expelled from them;
- 10) individuals and legal entities who, in cases specified by the Republic of Kazakhstan legislative acts, petitioned to the court with an application for the protection of rights and interests of other persons or of the state, which are protected by the law;
- 11) attorney (agent) who petitions to a court with a claim for refund of budget loans , and also governmental loans and loans secured by the state in accordance with the budget legislative acts of the Republic of Kazakhstan;
- 12) plaintiffs who are participants of the Great Patriotic War and persons equated to those, persons awarded with orders and medals of the former Soviet Union for selfless work and immaculate military service at the home front during the years of the Great Patriotic War, persons who worked (served) not less than six months from June 22, 1941 until May 9, 1945 and not awarded with orders and medals of the former

Union of SSR for selfless work Kazakhstan and immaculate military service at the home front during the years of the Great Patriotic War, disabled, and also one of the parents of a disabled from childhood - in relation to all cases and documents;

13) plaintiffs who are repatriates - in relation to all cases and documents associated with the acquisition of the Republic of Kazakhstan citizenship;

14) individuals and legal entities - for filing to courts of law the following applications:

for abolition of a court ruling for termination of proceedings of a case or leaving an application without consideration;

for a postponement or installment plan for the implementation of a decision;

for changing a method or procedure for the implementation of a decision;

for securing claims or replacement of one of security with another;

for revision of decisions, rulings or decrees of courts due to newly-opened circumstances;

for addition or reduction of fines imposed by court rulings;

for reverting implementation of court decisions for restoration of missed dates;

for abolition of a default judgment;

on placing into special educational organizations and educational organizations with special form of treatment;

and also following claims:

against acts of court enforcement officers;

private appeals concerning court rulings on addition or reduction of fines;

other private appeals concerning court rulings;

appeals from court decrees on administrative violations;

for abolition of a default judgment of a court;

15) prosecutor authorities - in relation to any claims;

16) state institutions - when filing lawsuits and appealing court decisions, except for the cases of protecting interests of third parties;

17) public associations of disabled and (or) organizations formed by them which employ not less than 35 percent of disabled due to hearing, speech and also sight disabilities, - when filing lawsuits in their interests;

18) insurant and insurers - in relation to lawsuits arising from obligatory insurance agreements;

19) plaintiffs and defendants - in relation to disputes associated with compensation for harm caused to a citizen by unlawful conviction, unlawful use of imprisonment as a restraint measure, or unlawful imposition of an administrative complaint in the form of arrest or correction work;

20) the National Bank of the Republic of Kazakhstan, its affiliates, representative offices and departments- when filing lawsuits concerning issues within their bounds of authority;

21) *excluded by the law of the Republic of Kazakhstan dated 05.07.2012 No. 30-V (shall be enforced upon the expiry of 10 calendar days after its first official publication )*;

22) liquidation commissions for financial organizations which are liquidated through enforced procedures, in relation to lawsuits, applications filed in the interests of liquidation proceedings;

23) banks authorized in accordance with legislative acts of the Republic of Kazakhstan to implement governmental investment policies, - when filing lawsuits as follows:

for exacting arrears relating to loans issued at the expense of budget funds on a repayment basis;

for applying claims to property;

for bankruptcy of debtors in relation to their failure to implement obligations relating to external governmental loans and loans secured by the government, as well as loans issued at the expense of budget funds;

23-1) representatives of bondholders - when filing lawsuits on behalf of the bondholders on the matters related to issuers' failure to fulfill the obligations provided for by the prospectus of bond issue;

24) bankruptcy commissioners and rehabilitation managers - when filing lawsuits in the interests of bankruptcy proceedings, rehabilitation procedures within the bounds of their authority, as provided for by the Republic of Kazakhstan legislative acts on bankruptcy;

25) the competent authority for migration issues - when filing applications with respect to the issues connected with expulsion of foreigners and persons without citizenship from the Republic of Kazakhstan for violation of the legislative acts of the Republic of Kazakhstan.

**Footnote. Article 541 as amended by the Law of the Republic of Kazakhstan dated 23.11.2010 No. 354-IV (shall be enforced upon the expiry of 10 calendar days after its first official publication); dated 22.07.2011 No. 478-IV (shall be enforced upon the expiry of 10 calendar days after its first official publication); dated 28.12.2011 No. 524 -IV (shall be enforced upon the expiry of 10 calendar days after its first official publication); dated 05.07.2012 No. 30-V (shall be enforced upon the expiry of 10 calendar days after its first official publication)**

**Article 542. Exemption from payment of state fee when executing notarial acts**

The following shall be exempt from payment of state fee when committing notarial acts:

1) individuals - for certifying their wills, agreements of giving gifts of property in favour of the state;

2) state institutions - for issuing to them certificates (duplicate certificates) concerning the right to the state to inherited property, and also for any documents which are required for receiving those certificates (duplicate certificates);

3) individuals - for issuing to them certificates on the right to inherited property as follows:

property of persons who died when defending the Republic of Kazakhstan in connection with their performance of other state duties or public duties, or due to performance of the duty of a citizen of the Republic of Kazakhstan in relation to saving people's life, protection of state property and law and order;

dwelling place or unit share in a housing construction cooperative, where the heir resided with the testator for not less than three years as of the date of the demise of the testator and continues to reside in that dwelling place after his death;

insurance payments on insurance agreements, governmental borrowing bonds, amounts of work remuneration, copyright, amounts of royalties and rewards for discoveries, inventions and industrial samples;

property of rehabilitated citizens;

4) participants of the Great Patriotic War and persons equated to them, persons decorated with orders and medals of the former Union of SSR for selfless work immaculate military service at the home front during the years of the Great Patriotic War, persons who worked (served) for not less than six months from the 22nd of June 1941 until the 9th of May 1945 and not awarded with orders and metals of the former Union of SSR for selfless work and immaculate military service at the home front during the years of the Great Patriotic War, disabled, and also one of the parents of a disabled from childhood - in relation to any notarial acts;

5) repatriates (oralmans) - for all notarial actions connected with acquisition of nationality of the Republic of Kazakhstan;

6) *excluded by the law of the Republic of Kazakhstan dated 05.07.2012 No. 30-V (shall be enforced upon the expiry of ten calendar days after its first official publication)*

7) *excluded by the law of the Republic of Kazakhstan dated 05.07.2012 No. 30-V (shall be enforced upon the expiry of ten calendar days after its first official publication)*

8) mothers with many children, holding the titles "Heroine Mother" awarded with the "Altyn alka", "Kumis alka" pendants - in relation to any notarial acts;

9) individuals suffering from chronic mental diseases for whom guardianship is established in accordance with procedure established by the Republic of Kazakhstan legislative acts, - for receiving certificates on their inheritance of property;



10) the "Voluntary Society of the Disabled of Kazakhstan" (DOIK) association, the Kazakh Society for the Deaf (KOG), the Kazakh Society for the Blind (KOS), and also their industrial enterprises - in respect of all notarial acts.

**Footnote. Article 542 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012); dated 05.07.2012 No. 30-V (shall be enforced upon the expiry of ten calendar days after its first official publication).**

#### **Article 543. Exemption from payment of state fee when registering civil status records**

The following shall be exempt from payment of state fee when registering civil status records, upon presentation of confirmation documents:

1) participants of the Great Patriotic War and persons equated to them, persons decorated with orders and medals of the former Soviet Union for selfless work and immaculate military service at the home front during the years of the Great Patriotic War, persons who worked (served) for not less than six months from the 22nd June 1941 until the 9th May 1945 and not awarded with orders and medals of the former Soviet Union for selfless work and immaculate military service at the home front during the years of the Great Patriotic War, disabled, and also one of the parents of a disabled from childhood, guardians (tutors), state-owned organizations - in relation to registration and issuing of repeat certificates on birth;

2) individuals - for issuing to them certificates on alteration, addition, restoration and correction of records on birth, death, establishing paternity, adoption of a son (daughter), due to mistakes made in the course of registering civil status acts;

3) individuals - for issuing to them repeat or replacement of previously issued certificates on death or relatives;

4) individuals - for issuing repeat certificates on birth due to adoption of a son (daughter) and establishing paternity.

**Footnote. Article 543 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 544. Exemption from payment of state fee when restoring and acquiring the Republic of Kazakhstan citizenship**

1. The following shall be exempt from payment of state fee:

1) persons who were forced to depart from the Republic of Kazakhstan territory during periods of mass repressions, forced collectivization, as a result of other inhumane political acts, and their descendants - in case of their expressing the will to restore the Republic of Kazakhstan citizenship;

2) repatriates (oralmans) - when acquiring the Republic of Kazakhstan citizenship.



2. Said exemption from payment of state fee shall be granted once.

**Article 545. Exemption from payment of state fee when executing legally-material acts by the authorized state body in the sphere of intellectual property**

The following shall be exempt from payment of state fee when executing legally-material acts by the authorized state body in the sphere of intellectual property:

1) the elderly and disabled who reside at medical-social institutions for the elderly and disabled of general;

2) trainees of boarding schools, vocational schools and vocational lyceums, who are on complete governmental support and reside at hostels;

3) repatriates (oralmans) prior to the acquisition of the Republic of Kazakhstan citizenship;

4) heroes of the Soviet Union, heroes of the Socialist Labour, persons decorated with the Glory Order of three degrees and of Labour Glory of three degrees, "Altyn Kyran", "Otan", holders of the "Khalyk kaharmany", "Kazakhstannyn Enbek Eri" titles, mothers with many children holding the title of "Heroine Mother", decorated with the "Altyn Alka", "Kymis Alka" pendants;

5) participants of the Great Patriotic War and persons equated to them, persons decorated with orders and medals of the former Soviet Union of for selfless military service at the home front during the years of the Great Patriotic War, persons who worked (served) for not less than six months from the 22nd June 1941 until the 9th of May 1945 and not awarded with orders and medals of the former Soviet Union of for selfless work and immaculate military service at the home front during the years of the Great Patriotic War, disabled, and also one of the parents of a person disabled from childhood, as well as citizens who suffered from the Chernobyl Disaster.

**Footnote. Article 545 as amended by the Law of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article2).**

**Article 546. Exemption from payment of state fee in execution of other acts**

The following shall be exempt from payment of state fee:

1) when registering place of residence:

the elderly and disabled who reside at medical-social institutions for the elderly and disabled of general;

trainees of boarding schools, vocational schools and vocational lyceums, who are on complete governmental support and reside at hostels;

repatriates (oralmans) prior to the acquisition of the Republic of Kazakhstan citizenship;

heroes of the Soviet Union, heroes of the Socialist Labour, persons decorated with the Glory Order of three degrees and of Labour Glory of three degrees, "Altyn Kyran", "Otan", holders of the "Khalyk kaharmany", "Kazakhstannyn Enbek Eri" titles, mothers with many children holding the title of "Heroine Mother", decorated with the "Altyn Alka", "Kymis Alka" pendants;

participants of the Great Patriotic War and persons equated to them, persons decorated with orders and medals of the former Soviet Union for selfless military service at the home front during the years of the Great Patriotic War, persons who worked (served) for not less than six months from the 22nd June 1941 until the 9th of May 1945 and not awarded with orders and medals of the former Union of SSR for selfless work and immaculate military service at the home front during the years of the Great Patriotic War, disabled, and also one of the parents of a person disabled from childhood;

citizens who suffered from the Chernobyl Disaster;

2) when issuing or extending permits for the right to hunt - hunting managers, senior hunters, and staff hunters;

3) when filing a civil lawsuit in a criminal case;

4) when fixing an apostil on documents which are received for apostilling through diplomatic representative offices and consular institutions of the Republic of Kazakhstan;

5) when issuing repeat certificates on registration of civil status records - citizens who petitioned through diplomatic representative offices and consular institutions of the Republic of Kazakhstan;

6) when issuing passports and personal identification documents of citizens of the Republic of Kazakhstan, and also residence permits of foreign citizens in the Republic of Kazakhstan and identification documents of stateless persons as follows:

heroes of the Soviet Union, heroes of the Socialist Labour;

persons decorated with the Glory Order of three degrees and Labour Glory of three degrees, "Altyn Kyran", "Otan", holders of the "Khalyk kaharmany", "Kazakhstannyn Enbek Eri" titles;

mothers with many children, holding the titles "Heroine Mother" awarded with the "Altyn Alka", "Kumis Alka" pendants;

participants of the Great Patriotic War and persons equated to them, persons decorated with orders and medals of the former Union of the USSR for selfless military service at the home front during the years of the Great Patriotic War, persons who worked (served) for not less than six months from June 22, 1941 until May 9, 1945 and not awarded with orders and medals of the former Union of SSR for selfless

work and immaculate military service at the home front during the years of the Great Patriotic War, disabled, and also one of the parents of a person disabled from childhood;

the elderly who reside at medical-social institutions for the elderly and disabled of general, orphan children and children without parental support who are on full state support, living in orphan homes and (or) homes;

citizens who suffered from the Chernobyl Disaster.

7) when issuing state registration number for vehicles, trailers, motor transport:

heroes of the Soviet Union, heroes of the Socialist Labour, persons decorated with the Glory Order of three degrees and of Labour Glory of three degrees, "Altyn Kyran", "Otan", holders of the "Khalyk kaharmany", "Kazakhstannyn Enbek Eri" titles;

participants of the Great Patriotic War and persons equated to them, persons decorated with orders and medals of the former Union of the USSR for selfless military service at the home front during the years of the Great Patriotic War, persons who worked (served) for not less than six months from June 22, 1941 until May 9, 1945 and not awarded with orders and medals of the former Union of SSR for selfless work and immaculate military service at the home front during the years of the Great Patriotic War, disabled, and also one of the parents of a person disabled from childhood;

citizens who suffered from the Chernobyl Disaster.

**Footnote. Article 546 as amended by the Law of the Republic of Kazakhstan dated 12.02.2009 No. 133-IV (the order of enforcement see Article2).**

#### **Article 547. The procedure for the payment of state fee**

1. State fee shall be paid with cash money, by way of a bank transfer or through organizations carrying out separates of banking transactions.

2. State fee shall be paid as follows:

1) in relation to cases which are handled by courts, - prior to filing an application (complaint) or petition for passing a court order, and also when courts issue copy documents;

2) for the performance of notarial acts, and also for issuing copies documents, duplicates - when registering a committed notarial act;

3) for the state registration of civil status records, for the introduction of amendments, additions, restorations and corrections to entries of civil status records, and also for issuing confirmation documents and repeat certificates - when they are issued;

4) for the state registration of dissolution of a marriage upon mutual consensus of the spouses, who have no minority age children, - when registering the act;

5) for registration of place of residence of citizens - prior to issuing proper documents;

6) for issuing passports and personal identification cards of the Republic of Kazakhstan citizens, identification cards of stateless persons, residence permits of foreign citizens in the Republic of Kazakhstan, - prior to issuing proper documents;

**Note of the RCLI!**

**Sub-paragraph 7) as amended by the law of the Republic of Kazakhstan dated 27.04.2012 No. 15-V (shall be enforced from 01.01.2013).**

7) for issuing driver licences, tractor driver licences, certificates on state registration of mechanical transport vehicles and trailers, state registration number plates, international certificate of technical inspection - prior to issuing proper documents and state registration number plates;

8) for issuing permits granting the right to hunt - prior to the issue of the proper documents;

**Note of the RCLI!**

**Sub-paragraph**

**9) is provided amendment by the Law of the Republic of Kazakhstan dated 25.01.2012 No. 548-IV (shall be enforced from 01.01.2013).**

9) for issuing permits for import and export of rare and endangered species of plants, animals and sturgeon fish, as well as their parts and derivatives - prior to issuing proper documents;

10) for issuing permits for storage or storage and carry, transportation, import into the territory of the Republic of Kazakhstan and export from the Republic of Kazakhstan territory of arms and ammunitions therefor, - prior to the issue of proper documents;

11) for registration and re-registration of each unit of civil, service arms of individuals and legal entities (except for non-fire arms, hunting arms, signal pistols, mechanical sprays, sprays and other devices, equipped with tear gas or irritants substances, pneumatic arms with the muzzle energy not more than 7.5 J and caliber up to 4.5 mm inclusive) - prior to issuing proper documents;

12) in the cases relating to the acquisition of the Republic of Kazakhstan citizenship or termination of the Republic of Kazakhstan citizenship, and also to exit from the Republic of Kazakhstan and entry into the Republic of Kazakhstan, - prior to receiving proper documents;

13) for the fixation by the state bodies authorized by the Republic of Kazakhstan Government of the apostil on official documents emanating from the state bodies and from notaries of the Republic of Kazakhstan, - prior to the fixation of the apostil;

14) for the execution of legally-material acts by the authorized state body in the sphere of intellectual property, in relation to issuing innovation patents, patents,

confirmations, certificates, registration of agreements, certification and registration of patent attorneys, - prior to issuing proper document.

3. State fee shall be included in the place of execution of legally-material acts and (or) issuing documents by the authorized state bodies or officials.

4. Payment to the budget of amounts of state fee shall be carried out by way of a bank transfer or through organizations carrying out separates of banking transactions, or by paying it in cash money on the basis of strict accountability blank forms in accordance with the form established by the Government of the Republic of Kazakhstan.

5. Accepted amounts of state fee in cash money shall be deposited by the authorized state bodies to banks or organizations carrying out separates of banking transactions, no later than the next working day, following the day when acceptance of money was carried out for their subsequent inclusion into the budget. Where daily receipts of cash money are less than 10-times monthly calculation index, depositing money shall be carried out once in three working days from the day when acceptance of money was carried out.

**Footnote. Article 547 as amended by the Law of the Republic of Kazakhstan dated 24.01.2011 No. 399-IV (the order of enforcement see Article 2); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).**

#### **Article 548. Refund of paid amounts of state fee**

1. Paid amounts of state fee shall be subject to refund in part or in full in the following cases:

1) payment of state fee in a greater amount than it is required in accordance with this Code, except for the cases of reduction of claims by claimants;

1-1) transfer of a case to an arbitration terminal;

2) return of an application (complaint) or denial of it acceptance, and also denial of notaries and persons authorized appropriately, to commit notarial acts;

3) termination of proceedings on a case of leaving a claim without consideration, where a case is not to be handled by a court, and also where the plaintiff failed to comply with the procedure established for a given category of cases with regard to a preliminary consideration of a dispute, or a lawsuit is filed by an incapable person;

4) refusal of persons who paid state fee to commit legally-material acts or receive documents, prior to petitioning to the authority committing such legally-material acts;

5) in other cases established by the Republic of Kazakhstan legislative acts.

1-1. The state fee shall not be returned in the event of:

1) claimant's renunciation of suit;

2) reduction by the claimant of his claims;

3) settlement of case by amicable agreement of parties.

2. Tax applications for refund of paid amounts of state fee shall be handled by the tax service authority after receiving from the taxpayer a document from the relevant state authority, which is the basis for the refund of state fee, and also of a document confirming the payment of state fee, where those documents were submitted to the tax service authority prior to the expiry of three years period from the date of the inclusion of the amount of state fee into the budget.

3. Refund of amounts of state fee paid to the state budget, shall be carried out by the tax service authorities into the bank account of the taxpayer on the basis of his tax application by attaching the payment document confirming the payment of amounts of state fee, and a document from the relevant state body which is the basis for its refund.

4. Refund of amounts of state fee to a payer in whose favour a court decision was made for compensation of state fee from a state owned institution that is a party in a case, shall be carried out by the tax service authority on the basis of a tax application of the taxpayer, by attaching a payment document on payment of state fee to the budget and the court resolution entered into legal force.

5. Refund of amounts of state fee paid to the budget, shall be carried out by the tax authorities in the place of its payment from the relevant code of the budgetification, into which the amount of state fee was included, within fifteen business days from the date of submission of the tax application for refund.

6. After refunding an amount of state fee, the tax service authority shall forward a notice on the implementation of the court decision to the taxpayer and (or) a state-owned institution.

7. Documents relating to refund of amounts of state fee must be filed to the tax service authority prior to expiry of a three-year period from the date of inclusion of the amounts of state fee into the budget.

**Footnote. Article 548 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011); dated 17.02.2012 No. 565-IV (shall be enforced 01.07.2012).**

## **§ 2. Consular dues**

### **Article 549. General provisions**

Consular dues - a payment which is collected by diplomatic representative offices and consular institutions of the Republic of Kazakhstan from foreigners, stateless persons, nonresident foreign legal entities, individuals and legal entities of the Republic of Kazakhstan, for the execution of consular acts and issuing documents having legal significance.

## **Article 550. Payers of consular dues**

Foreigners, stateless persons and nonresident foreign legal entities, individuals and legal entities of the Republic of Kazakhstan in whose interests consular acts specified in Article 551 of this Code are performed, shall be payers of consular dues.

## **Article 551. Subjects of taxation**

Consular dues shall be collected for the execution of the following consular acts:

- 1) formulation of passports of citizens of the Republic of Kazakhstan;
- 2) issuance of visas of the Republic of Kazakhstan;
- 3) issuance of certificates for return to the Republic of Kazakhstan;
- 4) formulation of petitions of citizens of the Republic of Kazakhstan concerning issues of presence abroad;
- 5) consular registration of citizens of the Republic of Kazakhstan who arrive abroad for permanent place of residence, and children who are citizens of the Republic of Kazakhstan entrusted for adoption to foreigners;
- 6) formulation of documents on issues of the Republic of Kazakhstan citizenship;
- 7) registration of civil status records;
- 8) obtainment documents on demand;
- 9) legalization of documents and also receipt and forwarding documents for fixing apostil;
- 10) execution of notarial acts;
- 11) custody of wills, packages of documents (except for wills), funds, securities and other valuables (except for hereditary) at a consular institution;
- 12) selling goods and other assets from a public auction;
- 13) acceptance for custody for a period up to six months of assets or funds for passing to owners;
- 14) delivery of documents by diplomatic coach to addresses of legal entities;
- 15) issuance of certificates for the right to navigate under the flag of the Republic of Kazakhstan in the case of purchasing a ship abroad, compilation and certification of manifestoes and other documents in relation to ships of the Republic of Kazakhstan, as provided for by the Republic of Kazakhstan legislative acts or international agreements, to which the Republic of Kazakhstan is a party;
- 16) issuance of new documents (confirmations) having legal significance.

## **Article 552. Rates of consular dues**

1. Basic minimum and maximum sizes of rates of consular dues, as well as rates of consular dues for urgency shall be established by the Government of the Republic of



Kazakhstan, unless otherwise stipulated by international agreement, ratified by the Republic of Kazakhstan.

2. The Ministry of Foreign Affairs of the Republic of Kazakhstan have the right within basic rates of consular dues, to establish specific rates.

**Footnote. Article 552 is in the wording of the Law of the Republic of Kazakhstan dated 16.11. 2009 No. 200-IV (shall be enforced from 01.01.2010).**

### **Article 553. Exemption from payment of consular dues**

Consular dues shall not be collected as follows:

- 1) in cases specified in Articles 542-546 of this Code;
- 2) from individuals and legal entities of the countries that have with the Republic of Kazakhstan agreements for mutual non-collection of consular dues;
- 3) for obtaining on demand of the authorities and individual citizens of the countries with which the Republic of Kazakhstan concluded agreements on legal assistance, documents on family, civil and criminal cases, concerning alimonies, concerning state benefits and pensions, adoption;
- 4) for the compilation and printing Footnotes to foreign diplomatic representative offices and consular institutions for issuing visas to the following:
  - members of official delegations of the Republic of Kazakhstan and persons escorting them;
  - deputies of the Parliament of the Republic of Kazakhstan; state servants of the Republic of Kazakhstan who are holders of diplomatic or service passports of the Republic of Kazakhstan;
  - government officials of the Republic of Kazakhstan who are holders of diplomatic or service or national passports of the Republic of Kazakhstan, going abroad on official matters;
  - close relatives of the personnel of foreign institutions of the Republic of Kazakhstan and persons escorting them, who are exiting due to a disease or death of an employee or worker of a foreign institution of the Republic of Kazakhstan;
- 5) for processing petitions of citizens and legal entities of the Republic of Kazakhstan, and also foreigners and stateless persons, foreign legal entities for issuing of visas and sending instructions to foreign institutions of the Republic of Kazakhstan for issuing visas (visa support) to the following:
  - members of foreign official delegations and persons escorting them, who are headed to the Republic of Kazakhstan;
  - foreigners who are headed to the Republic of Kazakhstan for the participation in measures of national and international status (symposia, conferences and other political , cultural, scientific and sports events);



foreigners, who are headed to the Republic of Kazakhstan on invitations by the Administration of the President of the Republic of Kazakhstan, Government of the Republic of Kazakhstan, Parliament of the Republic of Kazakhstan, Constitutional Council of the Republic of Kazakhstan, Supreme Court of the Republic of Kazakhstan, Central Electoral Commission of the Republic of Kazakhstan,

Office of the Prime Minister of the Republic of Kazakhstan, state authorities, akimats of the provinces and cities of Astana and Almaty;

foreigners who are headed to the Republic of Kazakhstan with humanitarian aid, coordinated with the interested state authorities of the Republic of Kazakhstan;

employees of international organizations who are headed to the Republic of Kazakhstan on service affairs;

foreigners who are headed to the Republic of Kazakhstan on invitations of foreign diplomatic representative offices and consular institutions and also international organizations accredited in the Republic of Kazakhstan on a reciprocity principle;

investor visas;

individuals of Kazakh ethnicity who are not nationals of the Republic of Kazakhstan;

6) for issuing visas to the following:

members of foreign official delegations and persons escorting them who are headed to the Republic of Kazakhstan;

foreigners who are headed to the Republic of Kazakhstan for the participation in events of national and international significance (symposia, conferences and other political, cultural, scientific and sports events);

foreigners who are headed to the Republic of Kazakhstan on invitation of the Administration of the President of the Republic of Kazakhstan, Government of the Republic of Kazakhstan, Parliament of the Republic of Kazakhstan, Constitutional Council of the Republic of Kazakhstan, Supreme Court of the Republic of Kazakhstan, Central Electoral Commission of the Republic of Kazakhstan,

Administrative Department of the President of the Republic of Kazakhstan, Office of the Prime Minister of the Republic of Kazakhstan;

foreigners who are headed to the Republic of Kazakhstan with humanitarian assistance coordinated with interested state authorities of the Republic of Kazakhstan;

employees of international organizations who are headed to the Republic of Kazakhstan on service affairs;

foreigners who are headed to the Republic of Kazakhstan on invitation of foreign diplomatic representative offices and consular institutions and also international organizations accredited in the Republic of Kazakhstan on the basis of a reciprocity principle;

foreigners who are holders of diplomatic and service passports, who are headed to the Republic of Kazakhstan on service affairs;

children under 16 years;

persons of the Kazakh nationality, who are not citizens of the Republic of Kazakhstan;

former citizens of the Republic of Kazakhstan who permanently reside abroad and are headed to the Republic of Kazakhstan for burial of close relatives;

investor visas;

service visas;

diplomatic visas.

7) for issuing repeat visas instead primary visas containing mistakes made by employees of consular institutions of the Republic of Kazakhstan and the Ministry of Foreign Affairs of the Republic of Kazakhstan;

8) for issuing certificates for return to the Republic of Kazakhstan and documents to citizens of the Republic of Kazakhstan who have no documents and funds due to their loss, natural calamities and other force-majeure circumstances;

9) for issuing documents when shipping to the Republic of Kazakhstan coffins and urns with the remnants of citizens of the Republic of Kazakhstan who died abroad;

10) for obtaining on demand, the documents pursuant to petitions of foreign diplomatic representative offices and consular institutions on the basis of a reciprocity principle;

11) for legalization of documents of citizens of the Republic of Kazakhstan which are demanded through the foreign institutions of the Republic of Kazakhstan;

12) for legalization of documents pursuant to petitions of foreign diplomatic representative offices and consular institutions and also international organizations on the basis of a reciprocity principle;

13) for consular registration of citizens of the Republic of Kazakhstan who are being trained abroad and issuing to them documents having legal significance.

**Footnote. Article 553 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 22.07.2011 No. 478 -IV (shall be enforced upon the expiry of ten days after its first official publication).**

#### **Article 554. The procedure for payment of consular dues**

1. Consular dues shall be paid prior to the execution of consular acts.

2. Diplomatic representative offices and consular institutions of the Republic of Kazakhstan shall carry out consular acts after the payment by the payer of consular dues.

3. Payment of consular dues in the territory of the Republic of Kazakhstan, of which the rate is established in US dollars, shall be in tenge in accordance with the

official exchange rate as established by the National Bank of the Republic of Kazakhstan on the date of payment of dues.

4. Consular dues shall be paid as follows:

1) in the territory of the Republic of Kazakhstan - by way of a bank transfer or through organizations carrying out separates of banking transactions to the budget in the place of performance of consular acts or in cash money at consular institutions on the basis of strict accountability blank forms in accordance with the form established by the Government of the Republic of Kazakhstan.

Accepted amounts of consular dues in cash shall be deposited by the authorized state body to banks or organizations carrying out separates of banking transactions, no later than the next working day following a day when acceptance of funds for their subsequent transfer to the budget was carried out. Where daily receipts of cash money is less than 10-times monthly calculation index, depositing of funds shall be once in three working days after the day when acceptance of the money was carried out;

2) beyond the boundaries of the Republic of Kazakhstan - by way of a bank transfer or through organizations carrying out separates of banking transactions, into the bank account of the diplomatic representative office or consular institution without the right of economic use, or in cash money at consular institutions on the basis of strict accountability forms in accordance with the form established by the Government of the Republic of Kazakhstan.

5. Payment of consular dues shall be in the currency of the country in whose territory the consular acts are carried out, or in any other freely-convertible currency.

6. Accepted amounts of consular dues abroad shall be deposited by a diplomatic representative office or a consular institution to a foreign bank where a given diplomatic representative office or consular institution is situated no later than ten working days from the date of their acceptance for the inclusion into a foreign bank account.

Consular dues which are received into a foreign bank account in the currency of the country where the diplomatic representative office or consular institution is situated, shall be converted into US dollars, Euro, GBP, Swiss Franc, Canadian Dollar, Japanese Yen by the foreign bank pursuant to instructions of the diplomatic representative office or consular institution. The Head of the diplomatic representative office or consular institution who has the right of the first signature, shall be manager of the bank account

Consular dues received into a foreign bank account, shall monthly (no later than the 10th day of the month following a reporting month) shall be transferred by the diplomatic representative office or consular institution into the currency account of the Ministry of Foreign Affairs of the Republic of Kazakhstan for further inclusion amongst budget revenues. In the event that monthly receipts from consular dues by a

diplomatic representative office or consular institution is less than 1 000 US dollars, or its equivalent in the kinds of currency specified in this paragraph, by the rate at the end of the reporting period, a transfer shall be carried out quarterly no later than the 10th day of the month following a reporting month.

The Ministry of Foreign Affairs of the Republic of Kazakhstan shall transfer consular dues transferred by a diplomatic representative office or a consular institution within three working days from the date of receipt from the National Bank of the Republic of Kazakhstan of statements of correspondent accounts in foreign currency with attached payment documents, in an electronic form.

7. Paid amounts of consular dues shall not be refundable.

**Footnote. Article 554 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 05.07.2011 No. 452 -IV (shall be enforced from 01.01.2012).**

### **3. THE TAX ADMINISTRATION.**

#### **SECTION 20. THE TAX CONTROL AND OTHER FORMS OF THE TAX ADMINISTRATION**

##### **Chapter 80. GENERAL PROVISIONS**

##### **Article 555. Tax administration**

Tax administration purports the performance by the tax service authorities of the tax supervision, applying methods of ensuring the implementation of the tax obligations that have not been performed in time and of measures of enforced collection of tax arrears, as well as rendering state services for taxpayers (tax agents) and other authorized state bodies in accordance with the Republic of Kazakhstan legislative acts.

The documents shall be issued to the taxpayer (tax agent) as a part of provision of state services against the signature in the register of issued documents the form of which shall be approved by the authorized body.

**Footnote. Article 555 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012);**

##### **Article 556. The tax control**

1. The tax control means the state supervision by the tax service authorities of the compliance with the provisions of tax legislative acts of the Republic of Kazakhstan, other legislative acts of the Republic of Kazakhstan, of which the supervision of compliance is entrusted to the tax service authorities.

2. The tax control shall be exercised as follows:

1) In the form of tax inspection;

2) Other forms of state supervision.

3. These forms of tax control shall include the following:

1) accounting for the performance of tax obligations, duties associated with the assessment, withholding and transfers of obligatory pension contributions, assessment and payment of social assessments;

2) Control of the compliance with the procedures for the use of cash registers;

3) Control of excisable goods;

4) Control of transfer pricing;

5) Control of compliance with the procedure for accounting, storing, valuation, further use and marketing of assets converted (to be converted) into the ownership of the state;

6) Control of the functioning of the authorized state bodies and local executive authorities with regard to the performance of assignments associated with the exercise of the functions aimed at the implementation of the tax legislative acts of the Republic of Kazakhstan.

4. Other forms of state supervision shall include:

1) Registration of taxpayers by the tax authorities;

2) Acceptance of tax forms;

3) In-house supervision;

4) Monitoring of major taxpayers;

5) Tax audits;

6) Control of ethyl alcohol accounting in the organizations producing ethyl alcohol;

7) Establishing a correspondence of the applicant to the qualification requirements which are claimed for activity on production and turnover of ethyl alcohol and alcohol products.

5. General procedure of tax inspection shall be in accordance with the Law of the Republic of Kazakhstan "On state control and supervision in the Republic of Kazakhstan".

6. Characteristics of the procedure and deadlines for conducting tax inspection shall be determined by this Code.

**Note of the RCLI!**

**aragraph 7 is in the wording of Law of the Republic of Kazakhstan dated 10.07.2012 No. 36-V (shall be enforced from 01.01.2013)**

7. The authorized body shall develop and approve forms of departmental reporting, check lists, criteria of assessment of levels of risk, annual plans of conducting inspections in accordance with the Law of the Republic of Kazakhstan On state control and supervision in the Republic of Kazakhstan.

8. The customs authorities within the bounds of their authority, shall exercise the tax control, apply measures of securing unfulfilled in time tax obligations, and

measures for enforced collection of taxes which are due in connection to clearing goods through the customs boundary of the Custom Union in accordance with this Code and the customs legislative acts of the Custom Union and (or) the customs legislative acts of the Republic of Kazakhstan.

**Footnote.** Article 556 as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement see Article 2); dated 19.03.2010 No. 258-IV; dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 06.01.2011 No. 378-IV (shall be enforced upon the expiry of 10 calendar days after its first official publication).

#### **Article 557. Tax secrecy**

1. Any information concerning a tax payer (tax agent) received by a tax service authority, except for the following, shall constitute tax secrecy:

1) Concerning amounts of taxes and other obligatory payments to the budget, paid (transferred) by the taxpayer (tax agent), except for individuals;

2) Concerning amounts of refund from the budget to taxpayers of excess amounts of value-added tax offset, over amounts of the assessed tax;

3) Concerning amounts of tax arrears of taxpayers (tax agents);

4) Concerning taxpayers and taxpayers recognized as false businesses on the basis of a sentence that entered into legal force or a court decree;

5) Concerning submission by the taxpayer of a tax application for the performance of a documentary audit in connection with the liquidation (termination of business);

6) Concerning amounts of taxes and other obligatory payments to the budget assessed for taxpayers (tax agents), except for individuals, and punishment measures that were applied to taxpayers (tax agents) who violated the tax legislative acts of the Republic of Kazakhstan;

7) Whether a nonresident was/was not registered as carrying on business through a permanent establishment, affiliate, representative office or without forming a permanent establishment in accordance with Article 197 of this Code;

8) Concerning the following registration details of the taxpayer (tax agent):

Identification number;

Surname, name, patronymic (where available) of an individual who is a manager of a legal entity;

Business name of individual entrepreneurs, legal entities;

Dates of registration and deregistration, reasons for deregistration of taxpayers (tax agents);

Date of the beginning and termination of business;

Residence of taxpayers;

9) Schedule of tax audit;

10) On non-submission of tax reports by the taxpayer (tax agent).

2. Information concerning taxpayers (tax agents) which is recognized as tax secrets, may not be disclosed by the tax service authorities to another person without a written permission of the taxpayer (tax agent), unless otherwise specified by this Article.

3. The tax service authorities shall disclose information on taxpayers (tax agents), which constitute tax secrecy, without obtaining written permission from the taxpayers (tax agents), in the following cases:

1) to the law-enforcement authorities within the bounds of their authority as established by the legislative acts of the Republic of Kazakhstan, pursuant to requests concerning the performance by persons who committed tax violations and crimes, of tax obligations, duties of the tax agent, in accordance with the procedure established by this Code, for the purposes of their prosecution in accordance with the law;

2) to the court of law in the course of handling cases of assessment of tax liabilities of taxpayers, duties of tax agents with regard to the assessment withholding and transfer of taxes in accordance with the procedure established by this Code, or punishments for tax violations and crimes;

3) to the court enforcement officer within the bounds of his authority as established by the legislative acts of the Republic of Kazakhstan, when implementing executive writs with the court sanctions, and in respect of the executive writs issued on the basis of court acts that entered into legal force, without court sanctions.

The procedure for the submission of such information shall be established by the authorized body in conjunction with the authorized state body for ensuring the implementation of executive writs;

4) to the central authorized body for the budget planning.

The central authorized body for the budget planning shall approve the list of the officials who have access to information constituting tax secrets.

5) to the authorized state body for financial monitoring;

The authorized state body for financial monitoring shall approve the list of the officials who have access to information constituting tax secrets;

6) to persons invited as experts to participate in tax audits;

7) to tax authorities or law-enforcement authorities of other states, international organizations in accordance with international agreements (treaties) on mutual cooperation between the tax authorities or law-enforcement authorities where the Republic of Kazakhstan is a party, as well as agreements concluded by the Republic of Kazakhstan with international organizations;

8) to the authorized state body in the sphere of the environmental protection with regard to information which is contained in tax reports concerning payments for discharged into the environment;

9) authorized state statistics agency. The authorized state statistics agency shall approve the list of officials having access to the information which constitutes tax secrecy. The list of information which constitutes tax secrecy and the procedure of its representation shall be established by the authorized agency jointly with the authorized state statistics agency.

10) To the authorized body in the area of bankruptcy.

The authorized body in the area of bankruptcy shall approve the list of the officials having access to the information constituting secret tax information.

4. Tax secrecy shall not be subject to disclosure by the officials of the tax service, except for the cases established by this Article as well as by officials of other state bodies who received information on taxpayers (tax agents) from the tax service authorities in accordance with the procedure established by this Article.

5. Officials of the tax service authorities, officials of other state bodies who received from the bodies of the tax service information on taxpayers (tax agents), which constitute tax secrecy, shall not have the right to disseminate such information neither during their work for said authorities, nor after their dismissal. Tax secrets shall not be disclosed by experts who are hired to conduct tax audits, neither when performing their duties in the course of conducting a tax audit, nor after they complete that work.

6. Loss of documents containing information constituting tax secrecy, or divulgation of such information shall entail the liability provided for by the laws of the Republic of Kazakhstan.

**Footnote.** Article 557 as amended by the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced from 01.01.2010); dated 17.07.2009 N 188-IV (the order of enforcement see Article2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 19.03.2010 No. 258-IV; dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011); dated 24.11.2011 No. 495 -IV(shall be enforced upon the expiry of 10 calendar days after its first official publication).

#### **Article 558. Tax inspection**

1. Tax inspection - another form of tax supervision carried out by the Tax Service Authorities during working hours at the location specified in the registration details of the taxpayer (tax agent) for the purpose of:

Confirmation of the actual location or absence of the taxpayer (tax agent) at the place of location specified in the registration details;

Delivery of the tax inspection act in case specified in paragraph 2 of Article 637 of the Code to the taxpayer (tax agent);



delivery of a notification specified in sub-paragraphs 2) and 3) of paragraph 2 of Article 607 of the Code, in case specified in paragraph 1-1 of Article 608 of the Code to the taxpayer (tax agent).

Delivery of a decision for property restraint and (or) of a report on inventory of the restrained property to the taxpayer (tax agent).

For the participation in conducting tax inspection invited witnesses may be engaged in accordance with the procedure established by the Code.

2. The basis for conducting of tax inspection shall be:

1) Failure to deliver a tax inspection act, decision for property restraint and (or) a report on inventory of the restrained property to the taxpayer (tax agent).

2) Return by postal or any other communication organization of a notification specified in sub-paragraphs 2) and 3) of paragraph 2 of Article 607 of the Code forwarded by the Tax Authority via a postal service by a registered mail with notification due to the absence of the taxpayer (tax agent) at the place of location.

Therewith, inspection on the basis provided by this sub-paragraph in respect to the taxpayer (tax agent) which has a bank account shall be performed after five working days from the date of return of such letter by a postal or any other communication organization. Provisions of this paragraph shall not apply in the event specified in paragraph 1-2 of Article 608 of the Code;

3) The need for confirmation of the actual location or absence of the taxpayer being a VAT payer in accordance with Article 228 paragraph 1 sub-paragraph 1) of this Code at the place of location specified in the registration data. Tax Authority shall have the right to perform tax inspection at the place of location of the taxpayer as specified in the registration details on the grounds specified by this paragraph, but not more than once per month.

3. Upon the results of such inspection, a report on the tax inspection shall be compiled to specify the following:

Place, date and time of compilation;

Position, surname, name and patronymic (where available) of the official person of the tax service body who compiled the act;

Name of the tax service authority;

Surname, name and patronymic (where available), name and number of the personal identification document, residence address of the invited witnesses;

Surname, name and patronymic (where available) and (or) business name of the taxpayer (tax agent), his identification number;

Information on the results of the tax inspection.

4. In the event of a tax inspection resulting in establishing facts carried out on the grounds specified in sub-paragraph 3) of paragraph 2 of this Article of actual absence of taxpayers (tax agents) in places of their location specified in the registration details,

the Tax Service Authority shall forward to such taxpayer a notice for the confirmation of location of the taxpayer (tax agent).

5. Within twenty working days from the date of the forwarding by the Tax Service Authority of the notice specified in paragraph 4 of this Article the taxpayer shall be obliged to submit to the Tax Service Authority a written explanation of the reasons for absence at the time of inspection by visit.

In case of failure to implement the requirement specified in the first part of this paragraph the Tax Service Authority shall arrest debit operations on the banking account of such taxpayer in accordance with sub-paragraph 6) of paragraph 1 of Article 611 of the Code.

6. A taxpayer specified in paragraph 5 of this Article, within five working days from the date of arresting debit operations on its bank accounts shall be obliged to submit a written explanation of the reasons for absence at the time of tax inspection to the Tax Authority by visit.

In case of non-fulfillment by a taxpayer of a requirement established by part one of this paragraph, the Tax Authority shall perform deregistration of the value-added tax payer in the procedure established by paragraph 4 of Article 571 of the Code.

**Footnote. Article 558 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.06.2010 N 297-IV (shall be enforced from 01.07.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2010).**

#### **Article 559. participation of invited witnesses**

1. Execution of the following acts of officials of the tax service authorities pursuant to their request or request of the taxpayer (tax agent) may be carried out with the participation of the invited witnesses:

1) Delivery by the official person of the tax service body of the notice for the implementation of a tax obligation, ordinance for suspension of expenditure transactions in cash, decision on restraint of property disposal, deed on seizure of assets, notice for conducting a tax audit, injunction, tax audit report and other documents of the tax service authorities as specified by this Code;

2) Restraint on the property of a taxpayer (tax agent);

3) Inspection of assets which are taxable objects and (or) objects relating to taxation irrespective of the place of their location, which is carried out on the basis of an injunction;

4) Inventory taking (except for housing) of the taxpayer (tax agent) on the basis of an injunction, in particular by using special facilities (photo, audio, video equipment) in accordance with the procedure established by this Code;

5) Tax inspection.

2. Any full age capable citizens, not less than two, who are in partial with regard to the outcome of the acts of the official person of the tax service body and the taxpayer (tax agent), may be invited to be invited witnesses.

3. participation of officials and employees of the state bodies, foundation parties of the taxpayer (tax agent) as invited witnesses shall not be allowed.

4. The invited witnesses shall confirm the fact, contents and results of the acts of officials of the tax service bodies and the taxpayer (tax agent), in the commission of which they participated, as fixed in the protocol (act) to be compiled by the official person of the tax authority.

5. An invited witness shall have the right to make comments with regard to committed acts. Comments of an invited witness shall be subject to inclusion into the protocol (act) which is compiled by the official person of the tax service body.

6. The following shall be specified in the protocol (act) which is compiled by the official person of the tax service body with the participation of the invited witnesses:

1) Position, surname, name, patronymic (where available) of the official person of the tax service body, who compiled the protocol (act);

2) Name of the tax service authority;

3) Place and date of the commission of specific acts;

4) Surname, name, patronymic (where available), date of birth, place of residence, and number of the personal identification document of each person who participated in the act or were present in its course;

5) Contents and stages of the act;

6) Time of beginning and ending act;

7) Facts and circumstances found in the course of the act.

7. An official person of the tax service authority shall show the protocol (act) to the persons who participated in the performance of the act or were present in the course of its performance. After the perusal of the protocol (act) the official person of the tax service body and also all persons who participated in the commission of the act or who were present in the course of its performance, shall sign the protocol (act).

8. Photographs and negatives, video records and other materials prepared in the course of an act (where available) shall be attached to the protocol (act).

9. A protocol (act) compiled by the official person of the tax service authority in accordance with the procedure established by this Article, shall fix and confirm the fact of commission of the acts specified in paragraph 1 of this Article.

## **Chapter 81. REGISTRATION OF TAXPAYERS BY THE TAX AUTHORITIES**

### **Article 560. General provisions**

1. The authorized body shall maintain accounting for taxpayers by way of forming the governmental database of taxpayers.

2. The governmental database of taxpayers - is an information system intended for the performance of accounting for taxpayers.

3. Formation of the governmental database of taxpayers shall consist in the following:

1) Registration of individuals, legal entities, structural units of legal entities by the tax service authorities, as taxpayers;

2) Registration accounting for taxpayers:

As individual entrepreneur, advocate, private notary, private officer of justice;

For value-added tax;

As electronic taxpayers;

As taxpayers carrying out certain business;

Based upon the place of location of taxable objects and (or) objects relating to taxation;

At location of resident legal entity stated in sub-paragraphs 3), 4) and 5) of paragraph 1 of Article 197 of this Code, that is a subsurface user.

4. Registration of individuals, legal entities, and structural units of legal entities as taxpayers shall comprise the following:

1) Entry of information on those persons into the governmental database of taxpayers;

2) Amendment and (or) addition to registration details in the governmental database of taxpayers;

3) Exclusion of information on taxpayers from the governmental database of taxpayers.

5. Registration records of the taxpayer includes a statement of the taxpayer for registration referred to in sub-paragraph 2) of paragraph 3 of this Article, changes and (or) the registration data of the taxpayer, the taxpayer and the appropriate withdrawal of registration.

6. Information concerning taxpayers which is submitted to or filed to the tax service authorities by the following shall be recognized as registration details:

1) Authorized state bodies;

2) Banks or organizations carrying out certain banking transactions, in accordance with sub-paragraphs 1), 4) of Article 581 of this Code;

3) Taxpayers.

7. For the purposes of this Code the following shall be recognized:

1) Place of residence of an individual - place where such citizen is registered in accordance with the Republic of Kazakhstan legislative acts on registration of citizens;

2) Place of location of an individual entrepreneur, private notary, advocate - place of predominant performance of business of such individual entrepreneur, private notary, private officer of justice, advocate as filed in the course of the registration accounting by the tax authority, as individual entrepreneur, private notary, advocate;

3) Place of location of the resident legal entity, its structural unit, structural unit of a nonresident legal entity - place of location of its permanently functioning authority which is specified in the foundation documents or certificate on accounting registration of the structural unit;

4) Place of location of a nonresident legal entity who carries out business through a permanent establishment without opening of an affiliate, representative office - place of conducting business in the Republic of Kazakhstan as filed in the course of registration as taxpayer to the tax authority and indicated in the appropriate protocol of management body;

5) seat of a foreigner or a stateless person - a temporary stay of a foreigner or a stateless person in the Republic of Kazakhstan, indicated in the migration card. If, it is not provided the presence of a migration card in accordance with the provisions of an international agreement, the place of residence is the place of preferential location in the Republic of Kazakhstan declared a foreigner or a stateless person in the tax authority.

In this case, for a foreigner or a stateless person is not residing in the Republic of Kazakhstan, which occurs tax liability to pay tax in accordance with the Article 204 of this Code, the place of residence is the place of residence of the person paying such a foreigner or a stateless person income from sources in the Republic of Kazakhstan.

**Footnote. Article 560 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

## **§1. Registration as taxpayer**

### **Article 561. Entry of information concerning individuals, legal entities, Structural Units of legal entities into the governmental database of taxpayers**

1. Unless otherwise is specified by paragraph 6 of Article 562 of this Code, entry of information into the governmental database of taxpayers shall be carried out by the tax authority after the assignment to a physical, legal entity, structural unit of a legal entity of the identification number on the basis of information of the national registers of identification numbers.

2. The tax authorities shall carry out entering of the following information into the governmental database of taxpayers as follows:

1) on individuals, including foreigners or stateless persons, - based on the place of residence or presence;

2) on resident legal entities and their structural units, structural units of nonresident legal entities, legal entities incorporated under the laws of a foreign country the place of effective management (location of the actual management body) of which is located in the Republic of Kazakhstan, - based on place of location;

3) on nonresident legal entities carrying out business in the Republic of Kazakhstan through a permanent establishment without opening an affiliate, representative office, by place of location of such permanent establishment;

4) nonresident being a tax agent in accordance with Article 197 paragraph 5 of this Code, acquiring the shares or participatory interests specified in Article 197 paragraph 1 sub-paragraphs 3), 4), and 5) of this Code, - at the place of location of the legal entity being a subsoil user specified in Article 197 paragraph 1 sub-paragraphs 3), 4), and 5) of this Code. The provisions of this sub-paragraph shall not apply if a nonresident being a tax agent in accordance with Article 197 paragraph 5 of this Code carries out its activities in the Republic of Kazakhstan through a permanent establishment registered with the tax authorities as a taxpayer.

In the event that such nonresident acquires securities, participatory interests in a legal entity, 50 and more per cent of the assets value of which are accounted for the property of two and more persons being subsoil users, the information about the nonresident shall be entered into the national database of taxpayers by the tax authority at the place of location of the competent authority;

4-1) nonresident acquiring securities, participatory interests in the event that the conditions specified in Article 193 paragraph 5 sub-paragraph 7) and Article 200-1 paragraph 1 sub-paragraph 8) of this Code are not complied with, - at the place of location of the legal entity the securities of which or participatory interests in which are to be acquired;

5) nonresident being a tax agent in accordance with Article 197 paragraph 5 of this Code, acquiring property other than the property set forth in sub-paragraph 4) of this paragraph, in the Republic of Kazakhstan, - at the place of location of the property. The provisions of this sub-paragraph shall not apply if a nonresident being a tax agent in accordance with Article 197 paragraph 5 of this Code carries out its activities in the Republic of Kazakhstan through the permanent establishment registered with tax authorities as a taxpayer;

6) on diplomatic representative offices and offices equated to those, of foreign states, which are accredited in the Republic of Kazakhstan, - by the place of location of such diplomatic representative office;

7) on a nonresident carrying on business through a dependent agent who is recognized as the permanent establishment of such nonresident in accordance with

paragraph 5 of Article 191 of this Code, - by place of location (residency, staying) of such dependent agent;

7-1) nonresident operating through an insurance company or insurance broker considered as a permanent establishment of the nonresident in accordance with Article 191 paragraph 1 of this Code, - at the place of location of the insurance company or insurance broker;

7-2) nonresident carrying out its activities under an agreement for joint activities which shall be considered as a permanent establishment of the nonresident in accordance with Article 191 paragraph 1 of this Code, - at the place of location (residency, staying) of the resident being a party to the joint activity agreement;

8) on nonresidents opening current accounts in resident banks, - by place of location of such bank.

3. Unless otherwise is provided for by this paragraph, the tax service authorities shall enter the information into the database of taxpayers within three working days from the date of the receipt of the data from the national registers of identification numbers. The information shall be entered into the national database of taxpayers by the tax authority at the place of location of the legal entity specified in Article 197 paragraph 1 sub-paragraphs 3), 4), and 5) of this Code which is a subsoil user, within three working days upon receipt of the data from the competent authority about acquisition by the nonresident of shares, participatory interests specified in Article 197 paragraph 1 sub-paragraphs 3), 4), and 5) of this Code.

4. Information on individuals which is contained in the National register of individual identification numbers shall be passed by the authorized state body to the tax service authorities on the reaching by individuals of sixteen years. In the event of acquisition of tax obligations by persons who have not reached sixteen years, information on such persons shall be passed to the tax service authorities pursuant to the requests of the tax authorities.

**Footnote. Article 561 as amended by the law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 562. Specifics in registration of nonresidents as taxpayers**

1. A nonresident legal entity which carries on business through a permanent establishment without opening an affiliated branch, representative office, for registration as a taxpayer subject to the provisions of Article 191 of this Code shall be obliged within thirty calendar days from the date of beginning business in the Republic of Kazakhstan through a permanent establishment, to file to the tax authority in the place of location of the permanent establishment a tax application for registration accounting with attachment notarized copies of the following documents:

1) Foundation documents;

2) Documents confirming the state registration in the country of incorporation of a nonresident with indication of the number of state registration (or an analogue thereof);

3) Documents confirming the tax registration in the country of incorporation of a nonresident with indication of the tax registration number (or an analogue thereof), if any.

1-1. A legal entity established under the laws of a foreign state the seat of effective management (location of the actual management body) of which is in the Republic of Kazakhstan, within thirty calendar days from the date of the decision on recognition of the Republic of Kazakhstan as a seat of effective management (location of the actual management body) shall file a tax application with the tax authority at the location for registration as a taxpayer with attachment of notarized copies of the following documents:

1) Foundation documents;

2) Documents confirming the state registration in the country of incorporation of a nonresident with indication of the number of state registration (or an analogue thereof);

3) Documents confirming the tax registration in the country of incorporation of a nonresident with indication of the tax registration number (or an analogue thereof), if any;

4) Minutes of the meeting of the board of directors or similar management body.

1-2. If a legal entity incorporated under the laws of a foreign state the place of effective management (location of the actual management body) of which is in the Republic of Kazakhstan submits a tax application for registration at the place of location and existence of permanent establishment without opening an affiliated branch (representative office) in the Republic of Kazakhstan, such permanent establishments shall transfer their rights and obligations to such legal entity in accordance with the procedure provided by Article 39-1 of this Code.

If a legal entity decides to transfer the seat of its effective management (location of the actual management body) to the Republic of Kazakhstan and if a legal entity has an affiliated branch (representative office) registered as a permanent establishment in the Republic of Kazakhstan, the registration data of such branch (representative office) shall be changed in accordance with the procedure provided by Article 563 of this Code.

2. A nonresident, a tax agent in accordance with paragraph 5 of Article 197 of this Code, who intends to purchase property in the Republic of Kazakhstan, prior to such purchase, for the purpose of registration as taxpayer, shall submit to the tax authority in the place of location of the property a tax application for registration accounting with attachment of notarized copies of the following documents:

1) Personal identification documents of a nonresident individual or constituent documents of a nonresident legal entity;



2) In the case of a nonresident legal entity - documents confirming the state registration in the country of incorporation of such nonresident with indication of the number of state registration (or an analogue thereof);

3) Documents confirming the tax registration in the country of incorporation (nationality) of a nonresident with indication of the tax registration number (or an analogue thereof), if any.

3. An insurance company (insurance broker) or a dependent agent whose activity in accordance with paragraphs 1 and 5 of Article 191 of this Code is recognized as permanent establishment of a nonresident, for registration of such nonresident as taxpayer, shall, within thirty calendar days from the date of beginning the business defined in accordance with paragraph 11 of Article 191 of this Code, present to the tax authority in the place of location (residency, staying) a tax application for registration accounting with attachment notarized copies of the following documents:

1) Agreement (contract, transaction or other document) where available, granting authority to carry out business on behalf of the nonresident, to sign contracts or for other purposes;

2) Personal identification document of a nonresident individual, or foundation documents of a nonresident legal entity whose permanent establishment he is;

3) For a nonresident legal entity - document confirming the state registration in the country of incorporation of a nonresident, whose permanent establishment the agent is with indication of the number of state registration (or an analogue thereof);

4) Document confirming the tax registration in the country of incorporation of a nonresident whose permanent establishment the agent is with indication of the tax registration number (or an analogue thereof), if any.

3-1. A nonresident, a party to a joint activity agreement concluded with a resident, whose activities result in formation of a permanent establishment, for registration as a taxpayer shall submit to the tax authority for the place of location (residency, staying) of the resident being a party to the joint activity agreement a tax application for registration, within thirty calendar days from the date of commencement of the activity defined in accordance with Article 191 paragraph 11 of this Code with attachment of notarized copies of the following documents:

1) Joint activity agreement;

2) Identification document of a nonresident individual or foundation documents of a nonresident legal entity;

3) Document confirming the state registration in the state of incorporation of the nonresident with specification of the number of state registration (or an analogue thereof);

4) Document confirming tax registration in the state of incorporation of a nonresident with indication of the number of tax registration (or an analogue thereof), if any.

4. A nonresident who opens current accounts in resident banks shall, prior to the opening of an account, be registered as taxpayer. In order to be registered as taxpayer, such nonresident shall submit to the tax authority in the place of the bank's location a tax application for registration accounting and attach notarized copies of documents specified in paragraph 2 of this Article.

5. Foreigners and stateless persons who receive income from sources in the Republic of Kazakhstan, who are not subject to taxation at source of payment in accordance with the provisions of this Code, shall, within thirty calendar days from the date of beginning the performance of business as defined in accordance with paragraph 11 of Article 191 of this Code, submit to the tax service authority in the place of accommodation (residence), a tax application for registration accounting with attachment of notarized copies of the following documents:

- 1) Personal identification document of a foreigner or a stateless person;
- 2) Document confirming the tax registration in the country of nationality (domicile) with indication of the tax registration number (or an analogue thereof), if any;
- 3) Document confirming amounts of income from sources in the Republic of Kazakhstan, where such document is available.

5-1. Unless otherwise provided by this Article, a nonresident individual shall be registered as a taxpayer within thirty calendar days from the date of his recognition as a resident of the Republic of Kazakhstan in accordance with Article 189 of this Code.

6. A nonresident specified in sub-paragraph 4) of paragraph 2 of Article 561 of this Code, shall be subject to registration as taxpayer on the basis of information of the authorized state and local executive authorities carrying out state regulation within their competence in the sphere of subsoil use in accordance with the legislative acts of the Republic of Kazakhstan on subsoil and subsoil use, on acquisition by a nonresident of shares or participatory interest, specified in sub-paragraphs 3), 4) and 5) of paragraph 1 of Article 197 of this Code, or on the basis of a such nonresident's tax application for registration with attachment of notarized copies of the documents established by paragraph 2 of this article.

6-1. For the purpose of registration as a taxpayer a nonresident specified in Article 561 paragraph 2 sub-paragraph 4-1) of this Code shall submit to the tax authority for the place of location of the issuing legal entity or resident legal entity specified in Article 193 paragraph 5 sub-paragraph 7) and Article 200-1 paragraph 1 sub-paragraph 8) of this Code a tax application for registration with attachment of notarized copies of the documents provided by paragraph 2 of this article.

7. A diplomatic representative office or a representative office of a foreign state equated thereto, a consular institution of a foreign state accredited in the Republic of Kazakhstan shall be subject to registration as a taxpayer. For the purpose of registration as a taxpayer such representative office or institution shall submit to the tax authority for the place of their location a tax application for registration with attachment of notarized copy of the document confirming the accreditation in the Republic of Kazakhstan.

8. Paragraphs 8 - 12 are suspended until 01.01.2013 by the Law of the Republic of Kazakhstan dated 10.12.2008 N 100-IV (for the suspended version see an archived version No. 15 of the Tax Code of the Republic of Kazakhstan).

**Footnote. Article 562 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467 -IV (shall be enforced from 01.01.2012).**

#### **Article 563. Amendments and additions to registration details in the governmental database of taxpayers**

1. The tax authorities shall carry out the introduction of amendments and additions to the registration details presented in the course of registration of taxpayers, as follows :

1) in case of an individual - on the basis of information from the National register of personal identification numbers;

2) in case of a resident legal entity and its structural unit, structural unit of a nonresident legal entity - on the basis of information of the National register of business identification numbers or a tax application for registration as a legal entity created in compliance with the legislative acts of a foreign state, and the seat of effective management (location of the actual management body) of which is in the Republic of Kazakhstan;

3) in case of a nonresident legal entity carrying out business in the Republic of Kazakhstan through a permanent establishment without opening an affiliated branch, representative office - on the basis of a tax application for registration accounting;

4) in case of a nonresident, a tax agent in accordance with Article 197 paragraph 5 of this Code, if there is a change of the location of a person holding the subsoil use right in the Republic of Kazakhstan specified in Article 197 paragraph 1 sub-paragraphs 3), 4), and 5) of this Code, - on the basis of the tax application for registration as a taxpayer of such nonresident or information of authorized governmental and local executive authorities exercising governmental control within the competence in the area of subsoil use in accordance with legislative acts of the

Republic of Kazakhstan on subsoil and subsoil use, concerning acquisition by a nonresident of shares, participatory interests specified in Article 197 paragraph 1 sub-paragraphs 3), 4), and 5) of this Code;

4-1) in case of a nonresident specified in Article 561 paragraph 2 sub-paragraph 4-1), if there is change of the location of a resident legal entity - in accordance with the data about such resident stated in the National Register of Business Identification Numbers;

5) in case of a diplomatic representative office or equated representative office of a foreign country accredited in the Republic of Kazakhstan - on the basis of a tax application for accounting registration;

6) in case of a nonresident carrying out business through a dependent agent who is considered to be a permanent establishment of a nonresident in accordance with paragraph 5 of Article 191 of this Code, - on the basis of a tax application to be filed to the tax authorities by the dependent agent;

7) in case of a nonresident individuals and legal entities having current accounts in a resident bank, - on the basis of the bank's notice.

2. Updating of the information concerning the person who is in charge of settlements with the budget, telephone number, electronic mail address of a legal entity , its structural subdivision shall be carried out on the basis of a tax application for registration accounting.

2-1. Updating of the information on director of a resident legal entity, its structural subdivision, structural subdivision of a nonresident legal entity shall be performed on the basis of a tax application for registration accounting.

A notarized copy of a decision on appointment of an executive authority of a legal entity, which was made at the general meeting of the members (shareholders) of a legal entity or of a member (shareholder) of a legal entity consisting of one member (shareholder) shall be attached to the tax application submitted to introduce changes in the information related to the head of a resident legal entity.

A notarized copy of a decision of the legal entity's authorized authority on appointment of a head of the legal entity's structural subdivision or another document confirming his powers shall be attached to the tax application submitted to introduce changes in the information on the head of the structural division of a legal entity.

3. Updating of the information concerning bank accounts of taxpayers shall be carried out on the basis of information from banks or organizations carrying out certain of banking transactions as presented in accordance with the procedure and time established in Article 581 of this Code.

4. An individual when changing the place of residence (accommodation) has the right to independently submit to the Tax Authority in the new place of residence a tax application for the introduction of amendments to registration details by attaching

copies of documents confirming the change of the place of residence (accommodation) of the taxpayer with submission of their originals.

5. A tax application for changing registration details of taxpayers shall be filed with the tax authority in the place of location (residence, staying) of the taxpayer (tax agent) not later than ten working days from the time of emergence of changes.

6. The tax authorities shall carry out the introduction of amendments into registration details of the taxpayer within three working days from the date of receiving information from the national registers of identification numbers, authorized state banks, banks or organizations carrying out certain of banking transactions, a tax application for registration accounting.

**Footnote. Article 563 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 564. Exclusion of Taxpayers from the State Database of Taxpayers**

1. The tax authorities shall exclude a taxpayer from the state database of taxpayers on the basis of information of the national registers of identification numbers or on the basis of his/her tax application as follows:

- 1) due to death or announcement of death of an individual;
- 2) in case of leaving the Republic of Kazakhstan for other permanent place of residence;
- 3) due to exclusion of legal entities, their structural units from the state Register of legal entities or deregistration from accounting registration of structural units of legal entities;
  - 3-1) change of the seat of effective management (location of the actual management body) in the Republic of Kazakhstan of the legal entity established under the laws of a foreign state;
- 4) due to termination of conducting business through a permanent establishment by a nonresident;
- 5) due to termination of conducting business by a foreigner or stateless person in the Republic of Kazakhstan;
- 6) due to termination of rights to property, rights to shares and (or) participatory interest of the nonresident specified in sub-paragraphs 4), 4-1) and 5) paragraph 5 of Article 561 of this Code, where such nonresident has not other taxable objects in the Republic of Kazakhstan;
- 7) due to termination of activity of a diplomatic or equated representative office of a foreign state accredited in the Republic of Kazakhstan;

8) due to termination of business of a nonresident through a dependent agent in the Republic of Kazakhstan, who is recognized as the permanent establishment of that nonresident in accordance with paragraph 5 of Article 191 of this Code;

9) due to closure of the current account of the nonresident specified in sub-paragraph 8) of paragraph 2 of Article 561 of this Code in a resident bank on the condition that such nonresident has not current accounts in resident banks and there is no information on opening current accounts for six months from the date of receipt of the bank's notice.

2. For the purpose of exclusion from the state database of taxpayers who are persons specified in sub-paragraphs 3)-8) of paragraph 2 of Article 561 of this Code, the tax authority shall forward to the justice authorities an electronic notice of deregistration of the following persons:

1) a nonresident carrying out business in the Republic of Kazakhstan through a permanent establishment without opening an affiliated branch, representative office, - on the basis of a tax application for deregistration;

2) a nonresident specified in sub-paragraph 4) of paragraph 2 of Article 561 of this Code, - on the basis of information of the authorized state and local executive authorities carrying out state regulation within their competence in the sphere of subsoil use in accordance with the legislative acts of the Republic of Kazakhstan on subsoil and subsoil use concerning selling securities or participatory interest, specified in sub-paragraphs 3), 4) and 5) of paragraph 1 of Article 197 of this Code;

3) a foreigner or stateless person - on the basis of a tax application for deregistration;

4) a diplomatic and equated representative office of a foreign country, accredited in the Republic of Kazakhstan, - on the basis of information from the authorized state body carrying out foreign policy activities on termination of activity of such diplomatic or equated representative office of a foreign state accredited in the Republic of Kazakhstan;

5) a nonresident specified in sub-paragraph 7) of paragraph 2 of Article 561 of this Code, - on the basis of a tax application of the dependent agent on deregistration;

6) a nonresident having a current account in resident banks, - on the basis of the bank's notice on closure of the nonresident's current account.

3. An electronic notice indicating details concerning nonresidents specified in paragraph 2 of this Article shall be forwarded by the tax authorities to the justice authorities within one working day from the date of receipt of information from the authorized state bodies, bank notices, a tax application for deregistration.

4. Exclusion of a taxpayer from the state database of taxpayers shall be carried out by the tax authority on the basis of information of the national registers of

identification numbers, on the condition that the taxpayer has not unfulfilled tax obligations.

**Footnote. Article 564 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

## **§2. Registration of individual entrepreneurs, private notaries, private enforcement agents, advocate**

### **Article 565. Registration as individual entrepreneur, private notary, private officer of justice, advocate**

**Footnote. The title as amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).**

1. Registration of an individual as individual entrepreneur shall be carried out by the tax authority by issuing a certificate on state registration of individual entrepreneur in accordance with the procedure and time as defined by the Republic of Kazakhstan legislative acts on private entrepreneurship.

2. The tax authorities shall not carry out registration of an individual as individual entrepreneur whose business as individual entrepreneur is not allowed by the Republic of Kazakhstan legislative acts.

3. Registration accounting of an individual as private officer of justice, private notary, advocate shall be carried out on the basis of the tax application of the individual for registration as individual entrepreneur, private notary, private officer of justice, advocate by the tax authority in the place of location before the beginning of notary activity, activity on execution of enforcement documents, advocate activity.

Copies of the following documents together with the originals shall be enclosed to the tax application filed for registration as a private notary, advocate:

identification document;

license of private notarial, advocate activity, activity on execution of enforcement documents;

document confirming the place of location of a private notary, private officer of justice, advocate.

The document confirming the place of location of a private notary, private officer of justice, advocate shall be the document confirming the title to the property or the right to its disposition.

4. The tax authorities shall carry out registration of individuals as individual entrepreneurs, private notary, private officer of justice, and advocates within three working days from the date of receipt of the tax application of an individual.

5. Registration of an individual as private notary, private officer of justice, advocate shall be carried out by the tax body with issuance of certificate of registration

as private notary, private officer of justice, and advocate in the form established by the authorized body.

6. In case of losing the certificate on state registration of individual entrepreneur (joint individual enterprise) a duplicate of this document certifying state registration is issued upon his application within three working days.

**Footnote.** Article 565 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 02.04.2010 No. 262-IV (shall be enforced from 21.20.2010); dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 28.12.2010 No. 368-IV (shall be enforced upon the expiry of ten calendar days after its first official publication); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2011).

**Article 566. Change of registration details of individual entrepreneur, private notary, private officer of justice, advocate.**

**Footnote.** The title as amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.20.2010).

1. Change of registration details of an individual entrepreneur, private notary, private officer of justice, advocate shall be carried out by the tax authority on the basis of a tax application for registration accounting of the individual entrepreneur, private notary, private officer of justice, advocate.

2. An individual entrepreneur, private notary, private officer of justice, advocate shall file a tax application specified in paragraph 1 of this Article, to the tax authority in the place of location not later than ten working days from the date of a change of the following:

1) Registration details specified in the certificate on state registration of individual entrepreneur;

2) Place of location of advocate, private notary, private officer of justice, advocate

3. The following shall be attached to a tax application for change of registration details of an individual entrepreneur, private notary, private officer of justice, advocate:

1) In case of an individual entrepreneur - original certificate on state registration of individual entrepreneur and also documents which are submitted in the case of the state registration of an individual entrepreneur in accordance with the Republic of Kazakhstan legislative acts on private entrepreneurship;

2) In case of private notary, private officer of justice, advocate - documents as established by paragraph 3 of Article 565 of this Code.

4. Change of registration details of an individual entrepreneur, specified in the certificate on state registration of the individual entrepreneur, shall be carried out by the tax authority by changing the certificate on state registration of individual



entrepreneur within three working days from the date of receiving a tax application filed for a change of registration details, unless otherwise specified in this paragraph.

The tax authorities shall refuse to change the registration data of an individual entrepreneur in the event that such individual entrepreneur is recognized as non-operating taxpayer in accordance with Article 579 of this Code.

5. Change of information on place of location of a private notary, private officer of justice, advocate shall be carried out by the tax authority within three working days from the day of receipt of a tax application filed for Change of registration details.

**Footnote. Article 566 as amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.20.2010); dated 21.07.2011 No. 467 -IV (shall be enforced from 01.07.2011).**

**Article 567. Deregistration from accounting registration as individual entrepreneur, private notary, private officer of justice, advocate**

**Footnote. The title as amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).**

1. Deregistration of an individual from registration accounts as individual entrepreneur shall be carried out by the tax authority on the basis of the tax application for registration accounting from an individual entrepreneur, private notary, private officer of justice, advocate in accordance with the procedure established by the Republic of Kazakhstan legislative acts on private entrepreneurship.

2. Deregistration of an individual from registration accounts as private notary, private officer of justice, advocate, shall be carried out by the tax authority on the basis of a tax application for registration accounting of an individual entrepreneur, private notary, private officer of justice, advocate.

3. Deregistration of an individual as individual entrepreneur, private notary, private officer of justice, advocate, shall be carried out by the tax authority on the condition of lack of unfulfilled tax obligations.

**Footnote. Article 567 as amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).**

### **§3. Registration accounting for value-added tax payers**

**Article 568. Obligatory registration for value-added tax**

1. Unless otherwise specified in this paragraph, resident legal entities, nonresidents who carry out business in the Republic of Kazakhstan through an affiliated branch, representative office, individual entrepreneurs in accordance with the procedure

established by paragraph 2 of this Article, shall be subject to obligatory registration for value-added tax. The following shall not be subject to obligatory registration for value-added tax:

State institutions;

Structural subdivisions of resident legal entities;

Persons specified in Articles 411, 420 and 442 of this Code in respect of business which is subject to tax on gambling industry, fixed tax and unified land tax, accordingly.

2. Where the size of the turnover in a calendar year is in excess of the minimum turnover defined in accordance with this paragraph, persons specified in paragraph 1 of this Article shall be obliged by visit to file to the tax authority in the place of location a tax application for registration for value-added tax not later than ten working days from the day of expiry of the month in which the excess of the minimum turnover occurred. The size of the taxable turnover shall be determined as progressive total as follows:

by newly-formed resident legal entities, affiliates, representative offices, through which a nonresident carries out business in the Republic of Kazakhstan, - from the date of the state (accounting) registration by the bodies of justice;

by individuals registered anew by the tax authorities as individual entrepreneurs, - from the date of registration by the tax authorities;

taxpayers removed from the registration accounting in respect of the value added tax based on the decision of the tax authority in the current calendar year - from the date following the date of deregistration on value added tax based on the decision of the tax authority;

by other taxpayers - from the first January of current calendar year.

For the purposes of registration for value-added tax the turnover of a taxpayer shall comprise the turnover, except for exempt turnover as specified in Article 232 of this Code:

1) from selling goods, performance of work, rendering of services in the Republic of Kazakhstan;

2) from purchase from a nonresident that is not a value-added tax payer in the Republic of Kazakhstan and does not carry on business through an affiliate, representative office of work, services, of which the place of sale is the Republic of Kazakhstan.

A place of sale of work, services shall be determined in accordance with Articles 236 and 276-5 of this Code.

3. For value-added tax registration purposes, the taxpayer carrying out settlements with the budget in accordance with the special regime for farmer or peasant holdings, when computing the turnover, shall not take into account turnovers from sales associated with the business that falls under that special tax regime.

4. A trust manager shall be obliged by visit to file to the tax authority in the place of location a tax application for value-added tax registration, not later than five working days from the date of concluding the trust management agreement, or date of another document which is the grounds for the emergence of the trust management, provided the trustor in accordance with trust management agreement, or the beneficiary in other cases of emergence of trust management is value-added tax payer. Where the trustor in accordance with the trust agreement or the beneficiary in other cases of emergence of trust management is not value-added tax payer, the obligatory value added tax registration of the trust manager shall be carried out on the grounds specified in paragraph 1 of this Article.

5. The minimum turnover shall be 30 000 times amount of the monthly calculation index as established by the law on Republican budget which is in effect as of the 1 January of the relevant financial year.

6. Persons specified in paragraph 1 of this Article shall become value-added tax payers on the first day of the month following a month in which they filed a tax application for value-added tax registration, unless otherwise specified by this Article.

7. Resident legal entities, nonresidents carrying on business in the Republic of Kazakhstan through an affiliate, representative office, in the obligatory procedure shall attach a notarized copy of the document confirming the place of location of the taxpayer to the tax application to be submitted for value-added tax registration.

A document confirming ownership or use rights to real estate shall be recognized as document confirming the place of location of the taxpayer.

Time between the date of the notarization of the copy document confirming the place of location of the taxpayer and the date of its submission to the tax authority must not exceed ten working days.

8. When identifying persons specified in paragraph 1 of this Article, who failed to present a tax application for value-added tax registration, the tax authority not later than five working days from the date of identifying such taxpayer, shall forward to such taxpayer a notice for elimination of violations of the tax legislative acts of the Republic of Kazakhstan in accordance with the procedure established by Article 608 of this Code.

9. In case of failure of a taxpayer to present a tax application for registration pursuant to the tax authority notice sent in accordance with paragraph 8 of this Article, upon expiry of the period established by paragraph 2 of Article 608 of this Code, the tax authority shall pass ordinance for suspension of expenditure transactions in bank accounts of the taxpayer in accordance with the procedure established by Article 611 of this Code.

Footnote. Article 568 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.06.2010 No. 297-IV (the order of enforcement see Article2)

#### **Article 569. Voluntary registration for value-added tax**

1. Unless otherwise specified by this paragraph, persons who are not subject to obligatory value-added tax registration in accordance with paragraph 1 of Article 568 of this Code, have the right to file to the tax authority in the place of location, by visit, a tax application for value-added tax registration. The following do not have the right of voluntary value-added tax registration:

- individuals who are not individual entrepreneurs;
- state institutions;
- nonresidents who do not carry on business in the Republic of Kazakhstan through an affiliate, representative office;
- structural subdivisions of resident legal entities;
- persons specified in Articles 411 and 420 of this Code in respect of business which are subject to tax on gambling industry and to fixed tax accordingly;

Resident legal entities, nonresidents carrying out business in the Republic of Kazakhstan through an affiliate, representative office shall attach the documents specified in paragraph 7 of Article 568 of this Code to the tax application submitted for value-added tax registration.

2. The tax authority within ten working days from the date of filing of the tax application for value-added tax registration, shall carry out registration of the taxpayer for value-added tax by issuing a certificate on value-added tax registration or passes a decision to deny the taxpayer's value-added tax registration, in accordance with the form established by the Government of the Republic of Kazakhstan.

Persons specified in paragraph 1 of this Article shall become value-added tax payers from the first day of the month following a month in which they filed the application for value-added tax registration.

3. The tax authorities shall deny the taxpayer voluntary value-added tax registration where on the date of filing the application for value-added tax registration one or several of the following circumstances are present:

- 1) The taxpayer failed to fulfill tax obligations associated with the submission of tax reports in accordance with the procedure and time which are specified in the special part of this Code;
- 2) Two years have not expired from the date of deregistration of this taxpayer for value-added tax on the basis of the Tax Authority decision in the procedure established by paragraph 4 of Article 571 of the Code;

3) Documents established by paragraph 7 of Article 568 of this Code have not been submitted;

4) The founder of a legal entity shall be recognized as:

Inactive legal entity;

Inactive individual entrepreneur;

Chief executive or founder of the inactive legal entity;

Incompetent or partially competent and (or) missing individual;

An individual, who has an outstanding or persistent conviction under Article 192, 192-1, 216 and 217 of the Criminal Code of the Republic of Kazakhstan;

Absconder;

5) Chief executive of the legal entity or an individual entrepreneur shall be recognized as:

Inactive individual entrepreneur;

Chief executive or founder of the inactive legal entity;

Incompetent or partially competent and (or) missing individual

Individual, which has an outstanding or persistent conviction under Articles 192, 192-1, 216 and 217 of the Criminal Code of the Republic of Kazakhstan;

Absconder.

4. A decision to deny value-added tax registration shall be delivered to the taxpayer with the receipt of the signature or otherwise confirming the fact of sending.

**Footnote. Article 569 as amended by the Law of the Republic of Kazakhstan dated 04.07.2009 No. 167-IV (shall be enforced from 01.01.2009); dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012).**

#### **Article 570. Certificate on value-added tax registration**

1. Certificates on value-added tax registration shall be strict accounting documents and they shall certify facts of taxpayers' value added tax registration. The form of the certificate shall be established by the Government of the Republic of Kazakhstan. Certificate of registration as a VAT payer shall be issued to the taxpayer against his signature in the register of issued documents.

2. Certificates on value-added tax registration shall contain the following obligatory details:

1) Business name and (or) surname, name, patronymic (if any) of the taxpayer;

2) Identification number;

3) Date of the taxpayers' value-added tax registration;

4) Date of issue consistent with the date of signature on the value-added tax registration certificate by the tax authority;

5) Name of the tax authority that issued the certificate.

3. Value-added tax registration certificates shall be kept by value-added tax payers.

4. In case of deregistration of a value-added tax payer, the value-added tax registration certificate shall be subject to return to the tax authority, except for cases of loss of certificates by taxpayers.

5. Replacement of the value-added tax registration certificate shall be effected by the tax authority in the following cases within three business days:

1) Loss (damage) of the value-added tax registration certificate - based on the taxpayer's tax application;

2) Change of the value-added tax payer's last name, first name, middle name (if any) or corporate - based on the data of national registers of identification numbers on change of last name, first name, middle name (if any) or corporate name of the taxpayer;

3) Absence of identification number in the certificate of registration as a VAT taxpayer - on the basis of the taxpayer's tax application.

In the event provided for by this sub-paragraph the taxpayer shall attach one of the following documents to the tax application:

1) notarized copy of a document confirming existence of the identification number;

2) a copy of a document confirming existence of the identification number, - subject to provision of the original document.

The copy of the document confirming existence of the identification number, including notarized copy, shall not be attached to the tax application submitted to the tax authority for replacement of the certificate of registration as a VAT payer in the event that it is presented to such tax authority for replacement or reissuance of any other document for the purpose of entering the identification number thereto in accordance with this Code.

6. When issuing new value-added tax registration certificates, the certificate issued earlier by the tax authority shall be returned to the tax authority, except for cases of loss (damage) of such certificate by the taxpayer.

**Footnote. Article 570 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); DATED 21.07.2011 No. 467-IV (the order of enforcement see Article9).**

#### **Article 571. Deregistration for value-added tax**

1. In order to be deregistered for value-added tax, payer of value-added tax shall have the right to file to the tax authority in the place of location a tax application for value-added tax registration accounting subject to simultaneous compliance with the following conditions:

1) Amount of the taxable turnover for the calendar year preceding the year of filing the tax application did not exceed the minimum sales turnover as established by Article 568 of this Code;

2) amount of the taxable turnover during the period starting from the current calendar year, wherein the tax application for value added tax registration accounting was filed, have not exceeded the minimum sales turnover as established by Article 568 of this Code.

2. The following documents shall be attached to an application submitted for value-added tax deregistration, in case specified in paragraph 1 of this Article:

1) Original certificate for value-added tax registration, except for cases of loss of such certificate by the taxpayer;

2) Liquidation declaration for value-added tax.

3. Unless otherwise is provided by this paragraph, the tax authorities shall carry out deregistration of a value-added tax payer within five working days from the date of submission of the tax application on the condition of compliance with the requirement established by paragraph 2 of this Article. Date of filing the tax application with tax authority by such taxpayer shall be the date of deregistration of a value-added tax.

Tax authorities shall reject to the taxpayer in deregistration of a value-added tax within five working days from the date of filing the taxpayer's tax application in the following cases:

1) amount of the taxable turnover for the calendar year preceding the year of filing the tax application exceeded the minimum sales turnover as established by Article 568 of this Code;

2) amount of the taxable turnover during the period starting from the current calendar year, wherein the tax application for value added tax registration accounting was filed, have exceeded the minimum sales turnover as established by Article 568 of this Code;

Decision on rejection of a value-added tax deregistration with specification of reason for such rejections in form established by the authorized body shall be delivered to the taxpayer in person against signature or other method confirming the fact of dispatch.

4. Value-added tax deregistration on the basis of a decision of the tax authority shall be carried out without notifying the taxpayer, in accordance with the form established by the Government of the Republic of Kazakhstan, in the following cases:

1) Failure of the value-added tax payer to submit value-added tax reports upon expiry of six months after the date established by this Code for its submission;

2) Non-fulfillment by the taxpayer of the requirement established by a part one of paragraph 6 Article 558 of the Code;

3) Recognition of the value-added tax payer as false business on the basis of a court sentence that entered into legal force, or a court decree.

4) Recognition of the individual entrepreneur's or legal entity's registration as invalid based on the court decision, which have become legally effective.

5. A decision on value-added tax registration shall be passed by the tax authority in the place of location of the taxpayer not later than five working days after:

the date of establishing of a case specified in sub-paragraphs 1) of paragraph 4 of this article;

the date of receipt by the tax authority of a sentence that entered into legal force, or an uncanceled court resolution on recognition of a taxpayer as false business;

the date of expiration of the term established by the part one of paragraph 6 Article 558 of the Code;

from the date of receipt by the tax authority of the court decision on recognition of the individual entrepreneur's or legal entity's registration as invalid, which have become legally effective.

6. A value-added tax payer shall be recognized deregistered for value-added tax pursuant to a decision of the tax authority as follows:

from the date of passing such decision - in the case of persons specified in sub-paragraphs 1) and (or) 2) of paragraph 4 of this Article;

from the date of beginning criminal activity - in the case of persons specified in sub-paragraph 3) of paragraph 4 of this Article;

from the date of a value-added tax registration accounting - for the entity specified in sub-paragraph 4) of paragraph 4 of this Article.

7. Deregistration for value-added tax shall be carried out in the following cases:

1) termination of business of a legal entity, nonresident legal entity in the territory of the Republic of Kazakhstan through an affiliate, representative office, individual entrepreneur, which are payers of value-added tax, - from the date of filing the tax application as specified in Articles 37, 41 of this Code;

2) in cases of reorganization of legal entities by way of merging, consolidation - from the date of submission of the tax application specified in Article 39 of the Code;

3) in case of reorganization of a legal entity by way of split-off - from the date of submission of the tax application specified in Article 40 of the Code.

8. In the case of liquidation of a value-added tax payer due to bankruptcy, deregistration for value-added tax shall be carried out from the date of the exclusion from the State register of legal entities or deregistration from registration accounts as individual entrepreneur.

9. Information on deregistration of value-added tax payers from value-added tax registration accounts pursuant to decisions of the tax authority shall be posted on the



site of the authorized body within one working day following the day of passing a decision for deregistration from value-added tax registration accounts.

10. Suspension of validity of a certificate on value-added tax registration shall be carried out by the tax authorities on the basis of a decision on suspension of presentation of tax reports by the value-added tax payer for a period specified by the taxpayer in the tax application for suspension of business, but for not more than a period specified by Article 46 of this Code.

In case of extension by the value-added tax payer of the period for suspension of presentation of tax reports, the validity of the certificate for value-added tax registration shall be suspended until the date of resumption of business of the taxpayer.

11. Information on suspension of validity of a certificate for value-added tax registration shall be posted on the site of the authorized body by specifying the period of suspension within one day following a day of passing the decision to suspend presentation of tax reports by the value-added tax payer.

**Footnote. Article 571 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (the order of enforcement see Article2); dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012).**

#### **§4. Registration as electronic tax payer**

##### **Article 572. Registration of electronic taxpayers**

1. Registration of individuals, legal entities, their structural units as electronic taxpayers shall be voluntary and it shall be carried out after passing registration as taxpayer by the tax authority.

2. For registration as electronic taxpayer the taxpayer by visit shall present a tax application for registration as electronic taxpayer to the tax authority in the place of location or residence of the taxpayer.

Presentation of a tax application for registration of an electronic taxpayer shall be understood as the taxpayer's agreement to exchange electronic documents by means of transmission through information-communication the Republic of Kazakhstan which ensure guaranteed delivery of messages, in particular to receive notices from the tax service authorities as provided for by this Code.

3. The tax authority within three working days from the day of accepting a tax application for registration of an electronic taxpayer shall issue to the taxpayer by the receipt of signature in the book of documentation the following:

1) Electronic medium with a key container which contains the electronic digital signature;

2) Agreement on use and recognition of the electronic digital signature in case of exchanging electronic documents.

4. The form of the agreement for use and recognition of the electronic digital signature in case of exchanging electronic documents shall be established by the authorized body.

5. Taxpayers must re-execute an agreement for use and recognition of electronic digital signatures in case of electronic document exchange according to the procedure established by this paragraph, if the identification number is not stated in such agreement.

Such agreement must be re-executed by the tax authority at the place of the taxpayer's location within three working days from the date of receipt of the tax application for registration of such electronic taxpayer. The taxpayer shall attach one of the following documents to the specified tax application:

1) a notarized copy of the document confirming existence of the identification number;

2) a copy of the document confirming existence of the identification number, - subject to presentation of the original document. No copy of the document confirming existence of the identification number, including a notarized copy, shall be attached to the tax application submitted to the tax authority for re-execution of the agreement of use and recognition of electronic digital signature in the event of electronic document exchange, if it is submitted to such tax authority for the purpose of replacement or reissuance of any other document in order to entering the identification number in accordance with this Code.

6. In the event of re-executed agreement for use and recognition of electronic digital signatures in case of electronic document exchange which has been earlier concluded with the tax authority shall be returned to the tax authority, except when such agreement was lost by the taxpayer.

**Footnote. Article 572 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).**

### **Article 573. Replacement and annulment of an electronic digital signature**

1. A taxpayer shall have the right to file a tax application for registration accounting of the electronic taxpayer for annulment of electronic digital signature or for its replacement, to the tax authority in the place of location or residence in the following cases:

- 1) Decisions to refuse using the electronic digital signature;
- 2) Termination of the validity period of the registration certificate;
- 3) Loss of the electronic medium with the key container which contains the electronic digital signature;

4) Damage which rendered the electronic information medium with the key container not operational.

2. Annulment of electronic digital signature terminates the right of the taxpayer for the exchange of electronic documents with the tax authority through information-communication network transmission, providing guaranteed message delivery in the cases established by this article.

3. Annulment or replacement of the electronic digital signature shall be carried out by the tax authority not later than one working day from the date of filing the tax application for the registration accounting of the electronic taxpayer for refusal of the key container containing the electronic digital signature or its replacement.

4. The tax authority shall annul the electronic digital signature without the taxpayer's application within one working day from the date of exclusion from the governmental database of taxpayers.

5. Annulment of electronic digital signature of the taxpayer is carried out by the tax authority within one working day by a decision of the authorized body concerning annulment of digital signature in the following cases:

1) Recognition of the taxpayer as false entrepreneur on the basis of an enforceable sentence or court order - from the date of receipt of the sentence or court order by the tax authority;

2) Recognition of an invalidation of state registration of the taxpayer on the basis of an enforceable court decision - from the date of receipt of the court decision by the tax authority.

**Footnote.** Article 573 is in the wording of the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); as amended by the law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

## **§5. Registration Of Taxpayers Carrying On Certain Of Business**

### **Article 574. Registration as taxpayer carrying on certain of business**

1. Taxpayers carrying on the followings of business shall be subject to registration:

- 1) production of petrol (except for aviation fuel), diesel fuel;
- 2) whole-sale and (or) retail trade in petrol (except for aviation fuel), diesel fuel;
- 3) production of ethyl alcohol and (or) alcohol products;
- 4) whole-sale and (or) retail marketing of alcohol products;
- 5) production and (or) whole-sale marketing of tobacco objects;
- 6) organization, conducting lotteries and marketing lottery tickets;
- 7) gambling business;

8) services using gaming machines without prizes, personal computers for games, game runways, carts, billiards tables;

9) production, assembly (complement) of excisable goods provided for in sub-paragraph 6) of Article 279 of the Code.

2. Registration as taxpayers carrying on certain of business shall consist in registration by the tax authorities of the taxable objects and (or) objects relating to taxation which are used in performance of certain of business as specified in paragraph 1 of this Article.

3. Registration as taxpayer carrying on certain of business which are subject to licensing, where appropriate licenses have been received, shall be executed within a period not to exceed the validity term of the license.

4. For registration as taxpayer carrying on certain of business, a taxpayer by visit shall present a tax application for registration with regard to certain of business to the tax authority in the place of location of the taxable objects and (or) objects relating to taxation.

5. A tax application specified in paragraph 4 of this Article, shall be submitted to the tax authority not later than 3 working days prior to the performance of the certain of business, unless otherwise specified by this Article, by attaching copies of the following documents:

1) when carrying out business specified in sub-paragraphs 2) and 4) of paragraph 1 of this Article, - document confirming ownership rights, or an agreement for leasing a petroleum storage depot (cistern), car filling station, warehouse (additional, engineering and technical) in case of the whole-sale marketing of alcohol products;

2) when carrying out business specified in sub-paragraphs 1), 3), 4), 5) (except for whole-sale of tobacco products), 6), 7) of paragraph 1 of this Article, - licenses for the right to perform business specified in sub-paragraphs 1), 3), 4), 5) (except for whole-sale of tobacco products), 6), 7) of paragraph 1 of this Article.

6. The tax authority within three working days from the time of submission of the tax application shall register the taxpayer as a payer carrying on certain of business in the place of location of the taxable object and (or) object relating to taxation by issuing a registration card.

A registration card is a strict accounting document, which is issued the tax authority when registering taxpayers carrying on certain of business, certifying the registration by the tax authorities of taxable objects and (or) objects relating to taxation

The tax authority shall issue a registration card to the taxpayer against the signature in the register of issued documents.

The form of the registration card shall be established by the Government of the Republic of Kazakhstan.

7. Where a taxpayer has several gambling houses (fixed places) a registration card shall be issued for each gambling house (fixed place). A fixed place is a place where the business activity of rendering services with the use of gaming machines without prizes, personal computers for games, game runways, carts, billiard tables.

8. Usage and possession of taxable objects and (or) objects relating to taxation which have not been registered by the tax authorities in the territory of a gambling institution (stationary place) is prohibited.

9. Where a taxpayer has several taxable objects and (or) objects relating to taxation, which are used in the course of performing business specified in sub-paragraphs 1) - 5) of paragraph 1 of this Article, issuing of a registration card shall be carried out separately for each taxable object and (or) object relating to taxation.

For the purposes of this paragraph, an object relating to taxation shall be understood as a petroleum storage depot (cistern), car filling station, as well as a fixed and (or) warehouse facilities which is used for the performance of business specified in sub-paragraphs 3)-5) of paragraph 1 of this Article.

10. A taxpayer carrying on the business of organizing, conducting lotteries and marketing of lottery tickets, shall be obliged to carry out registration by the tax authority of each issue of lottery tickets ten days prior to the beginning of their marketing.

**Footnote.** Article 574 as amended by the Law of the Republic of Kazakhstan dated 30.06.2009 No. 297-IV (shall be enforced from 01.07.2010); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

#### **Article 575. Amendment and alteration of registration data of a taxpayer engaged in certain activities**

1. In case of change of information of the taxation objects and/or taxation related objects specified in the registration card, the taxpayer must file a tax application specified in Article 574 paragraph 4 of this Code to the tax authority for the place of registration of the taxation objects or taxation related objects within three working days from the date of origin of such changes.

2. The registration card shall be replaced by the tax authority for the place of registration of the taxation objects and/or taxation related objects within three working days from the date of receipt of the tax application specified in paragraph 4 of Article 574 of this Code, in the cases as follows:

- 1) The registration card was lost (damaged);
- 2) The data about the taxation objects and/or taxation related objects changed;
- 3) The identification number is not specified in the registration card.

In any case specified by this sub-paragraph the taxpayer shall attach one of the following documents to such application:

1) A notarized copy of the document confirming existence of the identification number;

2) A copy of the document confirming existence of the identification number, - subject to presentation of the original document.

No copy of the document confirming existence of the identification number including notarized copies shall be attached to the tax application submitted to the tax authority for replacement of the registration card in the event of presentation thereof to the tax authority for re-execution or replacement of any other document for the purpose of specification the identification number therein in accordance with this Code.

3. In case of issuance of a new registration card the form of the registration card earlier issued by the tax authority shall be returned to the tax authority except when the specified registration card was lost (damaged) by the taxpayer.

**Footnote. Article 575 is in the wording of the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).**

#### **Article 576. Striking taxpayer carrying on certain of business of registration accounts**

1. A taxpayer shall be subject to deregistration from registration accounts as taxpayer carrying on certain of business on the basis of a tax application specified in paragraph 4 of Article 574 of this Code, in the following cases:

1) Termination of performance of the of business specified in paragraph 1 of Article 574 of this Code;

2) Deregistration of all taxable objects and (or) objects relating to taxation shown on the registration card.

2. A tax application for deregistration as taxpayer carrying on certain of business shall be filed by attaching the registration card to the tax authority in the place of registration of taxable objects and (or) objects relating to taxation, within three working days from the date of termination of business established by paragraph 1 of Article 574 of this Code or deregistration of the total number of taxable objects and (or) objects relating to taxation shown on the registration card.

3. Deregistration of a taxpayer as taxpayer carrying on certain of business shall be carried out on the basis of a decision of the tax authority in the following cases:

1) Termination of validity of the license of a taxpayer carrying on certain of business which are subject to licensing;

2) Termination of a lease agreement of the taxpayer carrying on certain of business as specified in sub-paragraphs 2) and 4) of paragraph 1 of Article 574 of this Code;



2-1) absence of the taxpayer carrying out certain of business specified in sub-paragraph 4) of paragraph 1 of Article 574 of the Code at the address specified in the license;

3) failure to present the declaration and/or calculation on excise duty by a taxpayer carrying on certain of business specified in sub-paragraphs 1), 2) and 3) of paragraph 1 of Article 574 of this Code for six months after the date for their submission established by this Code.

4. A decision on deregistration as taxpayer carrying on certain of business shall be passed by the tax authority in the place of registration of taxable objects and (or) objects relating to taxation in accordance with the form established by the Government of the Republic of Kazakhstan, not later than five days after dates of occurrence of the events specified in paragraph 3 of this Article.

5. Information on taxpayers deregistered as taxpayers carrying on certain of business shall be subject to posting on the site of the authorized body within three working days from the date of deregistration.

**Footnote. Article 576 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).**

## **§6. Registration accounting based upon the place of location of taxable objects and (or) objects relating to taxation**

### **Article 577. Registration in the place of location of taxable objects and (or) objects relating to taxation**

1. Registration of taxpayers in the place of location of taxable objects and (or) objects relating to taxation shall be carried out by the tax authority for ensuring the payment by the taxpayer of taxes on property, transport vehicles, land, unified land tax and other obligatory payments to the budget on the basis of information from the authorized state bodies carrying out accounting for, registration of taxable

Objects and (or) objects relating to taxation in accordance with Article 586 of this Code, unless otherwise established by this Chapter.

2. Individuals who in accordance with ownership rights, permanent land use right, primary charge-free temporary land use right, temporary chargeable land use right, temporary ownership and use, trust management rights, hold taxable objects and (or) objects relating to taxation on which the tax authorities have no information, shall have the right to submit a tax application for registration accounting to the tax authority in the place of location of the taxable objects and (or) objects relating to taxation.

With regard to an Object of construction in progress which is a taxable Object in accordance with Article 405 of this Code, an individual shall be obliged to file a tax application for registration, to the tax authority in the place of location of a taxable Object within ten days from the date of residence, operation.

3. Individual entrepreneurs and legal entities who on the basis of ownership rights permanent land use right, primary charge-free temporary land use right, temporary chargeable land use right, temporary ownership and use, trust management rights, hold taxable objects and (or) objects relating to taxation, shall be obliged within ten working days from the date of emergence of such rights, to file a tax application as specified in paragraph 2 of this Article for registration by the tax authority in the place of location of taxable objects and (or) objects relating to taxation.

In case of recognition of legal entities and individual entrepreneurs as payers of land tax in accordance with paragraph 2 of Article 374 of this Code, such tax payers are required to submit tax application referred to in paragraph 2 of this article, for the registration in the tax authority in the place of location of the taxation object and (or) object related to taxation, within ten working days from the effective date of the title documents, on the basis of which the right for actual possession and use of land plots is created.

The provisions of this paragraph shall not apply to individual entrepreneurs, legal entities in case of origin of the right to taxation objects and taxation related Objects, provided that the registration of such individual entrepreneurs, legal entities were registered in accordance with paragraphs 1 or 3 of this Article before the date of origination of such right.

4. Notarized copies of title-establishing documents or other documents confirming the right of temporary possession and use or trust management rights with regard to taxable objects and (or) objects relating to taxation, shall be attached to the application specified in paragraph 2 of this Article which is filed for registration in the place of location of taxable objects and (or) objects relating to taxation.

5. Registration of a taxpayer in the place of location of taxable objects and (or) objects relating to taxation shall be carried out by the tax authority within three working days from the date of receipt of information from the authorized state bodies and (or) a tax application specified in paragraph 2 of this Article.

**Footnote. Article 577 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011);**

**Article 578. Deregistration from registration accounts in the place of location of taxable objects and (or) objects relating to taxation**



1. Deregistration of a taxpayer in the place of location of taxable objects and (or) objects relating to taxation shall be carried out by the tax authority on the condition of fulfillment of the tax obligation that emerged in relation to taxable objects and (or) objects relating to taxation in the following cases:

1) termination of ownership rights permanent land use right, primary charge-free temporary land use right, temporary chargeable land use right, temporary land use rights, economic management, operative management rights to objects to taxable objects and (or) objects relating to taxation, - on the basis of information from the authorized state bodies carrying out accounting for, registration for taxable objects and (or) objects relating to taxation, unless otherwise specified by this Article;

2) Termination of the right of trust management of taxable objects and (or) objects relating to taxation, - on the basis of a tax application for deregistration by the tax authority in the place of location of taxable objects and (or) objects relating to taxation.

2. An individual, whose ownership rights, permanent land use right, primary charge-free temporary land use right, temporary chargeable land use right, trust management rights to taxable objects and (or) objects relating to taxation have been terminated, has the right to file a tax application for deregistration to the tax authority in the place of location of taxable objects and (or) objects relating to taxation in the event that the tax authority has no such information.

3. A legal entity whose ownership, permanent land use right, primary charge-free temporary land use right, temporary chargeable land use right, economic management rights, trust or operative management use rights under a concession agreement to taxable objects and (or) objects relating to taxation, shall be obliged to file to the tax authority in the place of location of the object, a tax application for deregistration in the place of location of such taxable objects and (or) objects relating to taxation, within ten working days from the date of termination of such right, unless otherwise established by this Article.

4. For deregistration, notarized copies of documents confirming the termination of ownership, use and (or) disposal of taxable objects and (or) objects relating to taxation, or trust management rights to them, shall be attached to a tax submitted application for deregistration in the place of location of taxable objects and (or) objects relating to taxation.

5. The tax authority shall carry out deregistration of a taxpayer in the place of location of taxable objects and (or) objects relating to taxation within three working days from the date of receipt of information from the authorized state bodies and (or) tax application of the taxpayer in the case of observance of the requirements established by paragraph 1 of this Article.

## **§7. Inoperative taxpayers and taxpayers at the stage of liquidation**

## **Article 579. Inoperative taxpayers**

1. Inoperative legal entities and individual entrepreneurs shall be recognised as inoperative taxpayers.

2. A resident legal entity, a nonresident legal entity carrying out business in the Republic of Kazakhstan through a permanent establishment, as well as a structural unit of a nonresident legal entity that failed to submit a corporate income tax, gambling business tax, fixed tax declaration and simplified declaration, upon expiry of one year after the date established by this Code for its presentation, except for taxpayers who are not subject to requirements of submitting such declarations, shall be recognized as inoperative legal entities.

3. An individual entrepreneur who failed to present the personal income tax, gambling business tax, fixed tax declaration and simplified declaration, upon expiry of one year after the date established by this Code for its presentation or the tax application for obtaining a patent within two years from the date of expiry of the validity term of the last patent, shall be recognized as inoperative individual entrepreneur.

4. Paragraphs 2, 3 of this Article shall not apply to resident legal entities, nonresident legal entities carrying out business through a permanent institution, structural units of a nonresident legal entity and of individual entrepreneurs who suspended business, for the period of its suspension.

5. The tax authorities shall annually not later than 30th April, approve the lists of taxpayers recognized as inoperative, and post information on the site of the authorized body.

6. Exclusion of taxpayers from the list of inoperative taxpayers shall be made after:

- 1) Fulfillment by the taxpayer of the tax obligation of presenting tax reports;
- 2) Payment of fines for failure to present tax reports in the case of their imposition on the taxpayer in accordance with the Republic of Kazakhstan legislative acts.

7. The date of appropriate order of the tax authority, taken within five working days after observance of the requirements specified in paragraphs 6 of this Article, shall be recognized as the date of exclusion of the taxpayer from the list of defunct taxpayers.

Information concerning exclusion of a taxpayer from the list of defunct taxpayers shall be posted on the site of the authorized body within three working days from the date of such exclusion.

**Footnote. Article 579 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

## **Article 580. Taxpayers at the stage of liquidation**

1. A person who filed an application for conducting a documentary audit due to liquidation (termination of business) is recognized as taxpayer who is at the stage of liquidation.

Information concerning taxpayers at the stage of liquidation shall be posted on the site of the authorized body within three working days from the date of filing the application for conducting a documentary audit due to liquidation (termination of business).

2. Exclusion from the list of taxpayers who are at the stage of liquidation shall be carried out by the tax authorities in the following cases:

1) exclusion from the State register of legal entities - within three working days from the date of receipt of information from the National register of business-identification numbers;

2) deregistration as individual entrepreneur, private notary, private officer of justice advocate - within three working days from the date of deregistration;

3) taxpayer taking a decision to resume business - within three working days from the date of notice to the tax authority on resumption of business.

**Footnote. Article 580 as amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).**

#### **§8. Duties of banks and organizations carrying out separates of banking transactions, authorized state bodies in the course of registration and registration accounting for taxpayers**

#### **Article 581. Duties of banks and organizations carrying out separates of banking transactions**

Banks or other organizations carrying out certain of banking transactions, shall do the following:

1) when opening bank accounts to taxpayers who are legal entities, including nonresidential, its subsidiaries, individuals recognized as individual entrepreneur, private notary, private office of justice, advocate, foreigner and stateless persons, except for bank accounts intended for accumulation of pension assets of accumulation pension funds, assets which are security in issues of bonds of special financial companies, and assets of investment funds, savings accounts of nonresidents and (or) correspondent accounts of foreign correspondent banks, to notify the authorized body of the opening of such accounts by means of transmission through information-communication network, ensuring secure delivery of messages, not later than one working day following a day of their opening, by specify the identification number.

Information on taxpayers, including individuals, consisting for registration as an individual entrepreneur, private notary, private enforcement agent, a lawyer provided by banks and organizations engaged in certain banking operations, in order to fulfill their obligations under this sub-paragraph and sub-paragraphs 4), 6), 9) and 12) of this part, in the order established by the authorized body in consultation with the National Bank of the Republic of Kazakhstan

Where it is impossible to notify of the opening of said accounts by means of transmission through information-communication network, due to technical problems, notices shall be forwarded on paper to the tax authority in the place of location (residence) of the taxpayer within three working days;

2) not to perform transactions in the bank accounts, except for savings accounts of nonresidents and (or) correspondent accounts of foreign banks without identification numbers in payment documents, except for bills of exchange and payment documents on the basis of which the bank carries out receipt and issue of cash money;

**Note of the RCL!**

**Sub-paragraph 3) is suspended until 01.01.2013 by the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV.**

3) when receiving payment documents for the payment of taxes and other obligatory payments to the budget, social assessments, transfers obligatory pension contributions and social assessments, to supervise the accuracy of the identification number specified in accordance with the rules for the formulation of identification numbers and details of the authorized state body.

Provision of this paragraph shall not be applicable in case of payment of other obligatory payments to the budget specified in sub-paragraph 2) of paragraph 1 of Article 55 of the Code by a foreigner or stateless person;

4) when the bank accounts of the taxpayer are closed, which are specified in sub-paragraph 1) of this Article, to notify the authorized body of their closure by way of transmission through information-communication network, ensuring the guaranteed delivery of messages, not later than one working day following the day of their closure by specifying the identification number.

Where it is impossible to notify of closure of said accounts by way of transmission through information-communication network, due to technical problems, notices shall be forwarded on paper to the tax authority in the place of location (residence) of the taxpayer within three working days;

5) in case of termination of recognition of interest income on an extended loan (advance) through suspension of accrual of such interest to an individual, recorded in registration as individual entrepreneur or legal entity, to notify the authorized body not

later than March 31 of the year following the reporting tax period as determined in accordance with Article 148 of this Code, wherein such recognition was terminated, in the form established by the Government of the Republic of Kazakhstan;

6) where funds of the client in bank accounts are sufficient for satisfaction of all claims applied to such client, in a priority procedure to perform the payment orders of the taxpayer for payment of taxes and other obligatory payments to the budget from the bank account.

In accordance with the same procedure, to perform collection orders of tax authorities for collection of accounts of taxes and other obligatory payments to the budget, fines and penalties which were not paid in time, not later than one operational day following a day of receipt of instructions from the tax authorities.

In case of absence or shortage of funds in bank accounts for satisfaction of all claims applied to a client, the bank shall carry out withdrawal of funds towards repayment of tax arrears in accordance with the sequence established by the Civil Code of the Republic of Kazakhstan;

7) to transfer amounts of taxes and other obligatory payments to the budget, obligatory pension contributions, social assessments as follows: on the day of committing transactions of writing off funds from the bank account of a taxpayer, except for the cases when payment is effected using a payment card;

not later than the next following operational day from the date of payment of cash money to cash departments of banks or organizations carrying out separates of banking transactions;

not later than the following operational day from the day of writing off funds from the bank account of the taxpayer in cases when payment is effected with a payment card;

8) if an injunction available, to allow officials of the tax service authorities to audit presence of funds and transactions performed in bank accounts controlled individual entrepreneur, private notary, private officer of justice, advocate, legal entities;

9) by a decision of the tax authority in the cases provided by this Code, to suspend all debit transactions in bank accounts (except for correspondence) of an individual, consisting for registration as an individual entrepreneur, private notary, private enforcement agent, lawyer, legal entity structure division of a legal entity, the structural unit of a legal entity - nonresident carrying on business in the Republic of Kazakhstan through a permanent establishment in accordance with the laws of the Republic of Kazakhstan, except for operations to repay the tax debt, arrears of pension contributions and social contributions;

10) for derecognition of the loans (loans) to the borrower, who is an individual, consisting for registration as an individual entrepreneur or a legal entity, within thirty

calendar days to notify the tax authority at the location (address) of the taxpayer-borrower on the occurrence y (last) income from retirement obligations;

11) the tax authorities at the location (address) of a tax agent and report information on the accrual of bank fees in the manner and time as provided by paragraph 4 of Article 216 of this Code, in the form established by the authorized body ;

12) submitted within ten working days from the date of receipt of the tax authority information about the presence and numbers of bank accounts, balances and cash flows of these accounts:

audited entity and (or) its structural unit on matters relating to taxation;

Tests of individual who are registered on the registration as an individual entrepreneur, private notary, private enforcement agent, a lawyer, on matters relating to taxation;

individual entrepreneur who is subject to a special procedure of tax liability upon termination of activities in accordance with Article 43 of this Code;

individual composed for registration as an individual entrepreneur, private notary, private enforcement agent, lawyer, legal entities and (or) its structural unit, the virtual absence of which the location is confirmed in the manner prescribed in Article 558 of this Code, and did not report tax returns until six months after the deadline established by this Code it is presented, except for the period of extension of such term in the cases provided for in this Code;

inactive individual composed for registration as an individual entrepreneur, legal entity in accordance with the authorized body in coordination with the National Bank of the Republic of Kazakhstan;

person registered in accordance with the law as a candidate for President of the Republic of Kazakhstan, deputies of the Parliament of the Republic of Kazakhstan and maslikhat, as well as members of the local government, and his wife (husband);

person who is a candidate for public office or the position related to the implementation of state or similar functions, and his wife (husband);

a person holding a public office, during the performance of his powers, and his wife (husband) in the same period;

person released on parole from serving.

The information provided by this sub part, shall be submitted in the form established by the authorized body in consultation with the National Bank of the Republic of Kazakhstan;

13) To deny opening bank accounts specified in sub-paragraph 1) of this Article to the following:

taxpayers who have in such bank an open bank account to which the tax services authorities issued collection orders or instructions for suspension of expenditure

transactions in bank accounts (except for correspondent accounts) of the taxpayer specified in sub-paragraph 2) of paragraph 1 of Article 609 of this Code;

Inoperative taxpayers on whom information is posted in the web-site of the authorized body.

For the purposes of this Article, accounts of state institutions opened in the authorized state body for the implementation of the budget shall be equated to bank accounts, and the authorized state body for the implementation of the budget shall be equated to an organization which carries out certain of banking transactions.

**Footnote. Article 581 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 02.04.2010 No. 262-IV (shall be enforced from 21.20.2010); dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010); dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012); dated 28.12.2011 No. 524-IV (shall be enforced upon the expiry of 10 calendar days after its first official publication); dated 05.07.2012 No. 30-V (shall be enforced upon the expiry of 10 calendar days after its first official publication).**

#### **Article 582. The interaction of the authorized state bodies in the course of performing registration and registration accounting for taxpayers**

The tax service authorities when carrying out registration and registration accounting for taxpayers, shall interact with the following state bodies:

- 1) Those carrying out the state registration, reregistration and liquidation of legal entities, accounting registration, reregistration, deregistration from accounting registration of structural units;
- 2) In the sphere of state statistics;
- 3) Those which carry out accounting for and (or) registration of taxable objects and (or) objects relating to taxation, in particular:
  - State registration of real estate rights;
  - State registration of pledges of movable assets and mortgages of ships or ships under construction;
  - State registration of radio electronic facilities and high-frequency devices;
  - State registration of space objects and rights to them;
  - State registration of transport vehicles;
  - State registration of pharmaceuticals, articles of medical purpose and medical equipment;
  - State registration of copyright and related rights, licensing agreements for the use of works and related rights objects;
  - Registration of mass communications media;

4) Those that issue licenses, certificates or other documents of permissive or registration nature, in particular:

Permits for use of water resources from surface sources;

Permits for use of wild life;

Ecological permits for special-purpose use of natural resources;

Forest cutting tickets and forestry tickets for use of forestry;

Permits for exposure of outdoor (visual) advertisements;

Permits for use of the radio-frequency spectrum;

Permits for use of the radio-frequency spectrum to television and radiobroadcast organizations;

Permits for travel of transport vehicles in the territory of the Republic of Kazakhstan;

Those granting rights to international and (or) international telephone communications, telecommunication networks of general use;

Those granting rights to use navigable water ways;

5) Those carrying out registration of individuals in their places of residence in the Republic of Kazakhstan;

6) Those carrying out registration of civil status acts;

7) Those performing notarial acts;

8) Those for guardianship and tutelage;

9) Those for transport and communications;

10) Those carrying out state regulation in accordance with the legislative acts of the Republic of Kazakhstan on subsurface and subsurface use;

11) Those performing foreign policy activities;

12) Other authorized state bodies as defined by the Republic of Kazakhstan government.

**Footnote. Article 582 as amended by the Law of the Republic of Kazakhstan dated 16.07.2009 No. 186-IV; dated 19.03.2010 No. 258-IV; dated 25.03.2011 No. 421-IV ( shall be enforced upon the expiry of 10 calendar days after its first official publication); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012); dated 06.01.2012 No. 529-IV (shall be enforced upon the expiry of 21 calendar days after its first official publication).**

#### **Article 583. Responsibilities of authorized state and local executive bodies in cooperation with tax service authorities**

1. The authorized state bodies carrying out the state registration, reregistration and liquidation of legal entities, accounting registration, reregistration deregistration from accounting registration of structural units, shall, not later than three working days from the date of registration, reregistration, liquidation of a legal entity, accounting



registration, reregistration, deregistration from accounting registration of a structural unit, present by way of electronic notification of the tax service authority, banks or organizations carrying out certain of banking transactions, information on registration, reregistration, liquidation of legal entities, accounting registration, reregistration, accounting deregistration of structural units.

2. The authorized bodies which carry out issuing of licenses, certificates or other documents of permissive or registration nature, shall present to the tax service authorities in the place of their location, information on taxpayers to which licenses, certificates or other documents of permissive and registration nature were issued, and on objects (of levying) of other obligatory payments to the budget, in accordance with the procedure in within time established by part 19 of this Code, and in accordance with the forms established by the authorized body.

3. The authorized state bodies carrying out accounting for or registration of taxable objects and (or) objects relating to taxation shall present information on taxpayers who have taxable Objects and (or) objects relating to taxation and also on taxable objects and (or) objects relating to taxation to the tax authorities in accordance with the procedure and forms established by the authorized body.

4. The authorized bodies carrying out collection of obligatory payments to the budget, accounting for and (or) registration of taxable objects and (or) objects relating to taxation, shall be obliged to specify in the information they present the identification numbers of taxpayers, except for individuals who use special protected natural territories for scientific, ecological, educational, tourism, recreation purposes and limited economic purposes.

5. The authorized state body carrying out registration of entries (exits) of foreigners , shall, not later than ten working days after registration of their entry (exit). present to the tax service authority information on foreigners who entered by specifying the purposes, place and time of their presence in accordance with the procedure established by the authorized body.

6. The authorized state and local executive authorities carrying out state regulation within their competence in the sphere of subsurface use in accordance with the legislative acts of the Republic of Kazakhstan on subsurface and subsurface use shall be obliged to present to the tax authority in the place of its location information on participants and parameters of a transaction whereby tax obligations arise in accordance with Article 197 of the Code, including information on a nonresident tax agent, within ten working days from the date of performance of such purchase and sale transactions in shares or participatory interest in accordance with the form established by the authorized body.

7. The authorized state body for the performance of foreign policy activities shall present to the tax authority in the place of location of a diplomatic representative office

or a representative office equated to such of a foreign state, accredited in the Republic of Kazakhstan, documents confirming accreditation and place of location of such diplomatic representative office and representative office equated to such, within ten working days from the date of accreditation.

8. Presentation of information on taxpayers and taxable objects (objects subject to taxation (levying) of other obligatory payments to the budget) and (or) objects relating to taxation, in an electronic form by using appropriate software intended for automated interaction of the tax service authorities and authorized state bodies, shall be carried out within ten working days in accordance with the procedure and forms which are established by the authorized body).

In case of presentation by the authorized state bodies of information on taxpayers (objects subject to taxation (levying) of other obligatory payments to the budget) and (or) objects relating to taxation in an electronic form, the presentation of information of the authorized state bodies on paper shall not be required.

**Footnote. Article 583 as amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

## **Chapter 82. ACCEPTANCE OF TAX FORMS. IN-HOUSE SUPERVISION**

### **Article 584. Acceptance of tax forms**

1. Tax forms, except for tax registers, shall be presented to the tax service authorities within time established by this Code.

2. The following shall be recognized as the dates of presentation of tax forms to the tax service authorities, except for tax registers in relation to the methods of their delivery:

1) by personal visit - the date of the acceptance of tax reports and (or) application by the tax service authorities;

2) by mail with registered delivery:

in case of tax reports - the date of the registration of the postal or another communications organization;

in case of a tax application - date of receipt by the tax service authorities;

3) in an electronic form - date of registration by the central site of the system of acceptance and processing of tax reports of the tax service authorities, as specified in the notice which is sent in accordance with the procedure established by paragraph 4 of this Article.

2-1. The date of submission of tax reports submitted in accordance with paragraph 1 of Article 69 of this Code, shall be the date of acceptance of tax reports revoked in accordance with sub-paragraph 2) of paragraph 2 of Article 69 of this Code.

3. Tax reports on paper filed to a postal organization or another communications organization prior to the twenty-four hours of the last day of the period established by this Code for the submission of tax reports, shall be deemed to be filed in time, provided there is a Footnote of time and date of the registration by a postal or another communications organization.

Tax reports in an electronic form which are submitted to the tax service authorities by way of transmission through information communication network, prior to twenty-four hours of the last day of the period established by this Code for the submission of tax reports, shall be deemed to be filed in time.

4. When filing tax reports in an electronic form, the tax service authorities shall be obliged not later than two working days from the time of receipt by the receiving system of tax reports of the tax service authority, to forward to the taxpayer an electronic notice of receipt or failure to receive tax reports by said system.

5. Tax forms, except for tax registers, shall be deemed not to be presented to the tax service authorities, where:

1) They are not in compliance with the tax forms established by the Government of the Republic of Kazakhstan in accordance with this Code, or

2) Code of the tax service authority is not specified, or

3) Identification number is not specified or incorrect, or

4) Tax period is not specified, or

5) of tax reports is not specified, or

6) Requirements of this Code have been violated with regard to signature {~} of tax reports, or

7) Structure of the electronic format established by the authorized body was violated.

**Footnote. Article 584 as amended by the law the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 05.07.2011 No. 452 -IV (shall be enforced from 01.01.2012); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012);**

### **Article 585. In-house supervision**

1. In-house supervision - is supervision which is carried out by the tax service authorities on the basis of examining and analyzing tax reports submitted by the taxpayer (tax agent), information of the authorized state bodies and also other documents and information concerning business of the taxpayer. In-house supervision shall be recognized as component of the risk management system.

2. The purpose of in-house supervision - providing the taxpayer with the right of independent elimination of violations revealed by the tax authorities as a result of in-house supervision, by way of registration in tax authorities and (or) submission of

tax statements in accordance with Article 587 of this Code and (or) payment of taxes and other obligatory payments to budget.

**Footnote. Article 585 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 586. The procedure and deadlines for conducting in-house supervision**

1. In-house supervision shall be carried out by way of comparing the following data available to the tax service authorities, between each other:

- 1) tax reporting;
- 2) *is excluded by the law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).*

3) data from other state authorities concerning taxation objects, and (or) objects related to taxation;

4) data, received from informational sources in respect to taxpayer's activity.

Data, indicated in sub-paragraph 1) of this paragraph, shall be compared with each other.

1-1. In-house audit shall be carried out for the respective tax authority upon the expiration of the period established by this Code for provision of tax accounts for such period.

2. In-house supervision is carried out during the period of limitation with regard to the provisions set out in article 46 of this Code.

**Footnote. Article 586 is in the wording of the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); as amended by the law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (the order of enforcement see Article 9).**

#### **Article 587. Results of in-house supervision**

1. In the case of finding violations, upon the results of in-house supervision a notice shall be formulated for elimination of violations found as a result of in-house supervision, by attaching description of found violations.

2. The implementation of a notice on violation of violations found upon the results of in-house supervision shall be carried out by the taxpayer (tax agent) within thirty working days from the date following the date of its delivery (receipt).

The notice of violations detected as a result of in-house supervision shall be deemed enforced if the taxpayer (tax agent) submits the tax account for the tax period to which the discovered violations refer to or explanation thereon in accordance with the requirements set forth by this Article.

In case of acknowledgement of the violations specified in the notice, the taxpayer (tax agent) shall submit to the tax service authorities the tax reports for the period to which found violations relate.

In case of disagreement with the violations specified in the notice, the taxpayer (the tax agent) shall present to the tax service authorities an explanation on found violations on paper or electronic medium.

2-1. The explanation referred to in paragraph 2 of this Article, must contain:

- 1) The date of signing of the explanation by the taxpayer (tax agent);
- 2) The surname, name, and patronymic (if any) or full name of the person who provided the explanation, his/her place of residence (location);
- 3) The taxpayer (tax agent) identification number;
- 4) The name of the tax authority which has sent the notice of violations detected as a result of in-house supervision;
- 5) The circumstances being a basis for disagreement of the person giving explanation with the violations specified in the notice;
- 6) The list of attached documents.

If supporting documents are specified as a basis for disagreement of the person giving the explanation with the violations specified in the notice, the copies of such documents, except for the tax accounts shall be attached to the explanation.

3. Failure to implement within established period the notice for elimination of violations founds as a result of in-house supervision, shall entail suspension of expenditure transactions in bank accounts of the taxpayer in accordance with Article 611 of this Code.

4. Upon results of the in-house supervision which is carried out in accordance with paragraph 7 of Article 43 of this Code, the tax agent shall compile a report in accordance with the form established by the authorized body. In that case, the date of compiling the report specified in this paragraph shall be recognized as date of completion of in-house supervision.

**Footnote. Article 587 as amended by the law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009); dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).**

## **Chapter 83. ACCOUNTING FOR THE PERFORMANCE OF TAX OBLIGATIONS, DUTIES OF TRANSFER OF OBLIGATORY PENSION CONTRIBUTIONS AND PAYMENT OF SOCIAL ASSESSMENTS**

### **Article 588. General provisions**

1. Accounting for the performance of tax obligations, duties associated with transfers of obligatory pension contributions and payment of social assessments shall

be carried out by the tax authorities by way of maintaining official accounts of taxpayers (tax agents).

2. The maintenance of the official account of a taxpayer (tax agent) by the tax authority shall comprise the following:

Opening of an official account;

subsequent presentation in the personal account of computed, assessed, reduced, paid, offset, refunded amounts of tax, other

Obligatory payments to the budget, obligatory pension contributions and social assessments; Closure of an official account.

The maintenance of an official account shall be carried out in accordance with the procedure established by this Code.

3. Amounts including increases or reductions of liabilities computed as follows shall be recognized as assessed, reduced amounts of tax, other obligatory payments to the budget, obligatory pension contributions and social assessments:

By the taxpayer (tax agent) in tax reports;

By the tax authority - based on information from the authorized state bodies;

By the authorized state bodies - for reasons established by this Code.

For the purpose of this Chapter, an excess of amounts of value-added tax to be offset over amounts of the assessed tax shall also be recognized as reduced amount of tax.

4. Total amount comprising an increase or reduction of liabilities, as assessed by the tax service authority as follows:

Upon the results of a tax audit;

Upon the results of considering a taxpayer (tax agent)'s complaint against a notice on the results of a tax audit and (or) a decision of the supervisor tax service authority, passed upon the results of handling a complaint against a notice, shall be recognized as assessed amount of tax, another obligatory payment to the budget, obligatory pension contributions and social assessments.

5. The official account of a taxpayer (tax agent) shall be maintained with regard to taxes, other obligatory payments to the budget, obligatory pension contributions and social assessments in accordance with the procedure and forms which are established by the authorized body.

6. The official account of a taxpayer (tax agent) shall be maintained in accordance with the uniform budgetification.

#### **Article 589. Opening and maintenance of official accounts of taxpayers (tax agents)**

1. The official account of the taxpayer (tax agent) shall be opened on the basis of the identification number and maintained in the place of the registration accounting of the taxpayer.

2. The official account shall be opened to a taxpayer (tax agent) as at the beginning of current year and (or) as at the date of emergence of a tax obligation, duty to transfer obligatory pension contributions and to pay social assessments, by specifying the balance of settlements including total arrears and overpayment. In the event that the taxpayer (tax agent) has neither arrears nor overpayment, the balance shall be deemed to be equal to zero.

Overpayment shall be understood as positive difference between the paid (less credited, refunded) and the assessed, computed (less reduced) amounts of tax, another obligatory payment to the budget, obligatory pension contributions and social assessments as shown in the personal account for current year, taking into account the balance of settlements from the official account for the year preceding current year.

The balance of settlements in the official account of a taxpayer (tax agent) in relation to taxes, other obligatory payments to the budget, obligatory pension contributions and social assessments shall be computed in accordance with the procedure established by the authorized body.

3. In the event that for certain of a tax, another obligatory payment to the budget, obligatory pension contributions and social assessments in the year preceding current year, the official account was maintained, then into the official account of current year the balance of payments shall be posted from the official account of the year preceding current year.

4. Computed, assessed, reduced, paid, offset, refunded amounts shall be shown in the official account of the taxpayer (tax agent) by specifying the date of entry, contents of transactions performed, title of the document on the basis of which such entry was so made.

5. The official account of a taxpayer (tax agent) shall be maintained in the national currency.

6. In the case of submission by a taxpayer (tax agent) in accordance with the provisions of subsurface use contracts of tax reports and (or) payment of taxes and other obligatory payments to the budget in foreign currency, accounting in the official account shall be maintained in the national currency in accordance with the following procedure:

1) Computed, reduced amounts by applying the market rate of currency exchange as established on the date of submission of tax reports;

2) Paid amounts on the basis of payment documents submitted by the authorized state body for the implementation of the budget.

The tax authority shall carry out adjustments of assessed or reduced amounts in the official account of the taxpayer (tax agent) by the amount of a difference that arises in the personal account because of changes in the market exchange rate as established on the date of submission of the tax reports and payment of tax and another obligatory

payment to the budget. Amounts of adjustments shall be computed by using the market exchange rate as established on the date of payment.

**Article 590. Accounting for the assessed amounts of taxes and other obligatory payments to the budget, obligatory pension contributions and social assessments**

Accounting for the assessed amounts of taxes and other obligatory payments to the budget, obligatory pension contributions and social assessments in the official account of the taxpayer (tax agent) shall be maintained on the basis of information in tax reports, information of the authorized tax bodies.

**Article 591. Accounting for the assessed amounts of taxes and other obligatory payments to the budget, obligatory pension contributions and social assessments**

1. Accounting for the assessed amounts of taxes and other obligatory payments to the budget, obligatory pension contributions and social assessments in the official account of the taxpayer (tax agent) shall be on the basis of the notices:

1) On results of a tax audit;

2) On assessed amounts of taxes and other obligatory payments to the budget, obligatory pension contributions, social assessments for the period from the date of submission of the liquidation tax reports until the date of completing the liquidation tax audit;

3) On results of handling the taxpayer's (tax agent) complaint against the notice on results of a tax audit and (or) a decision of the Superior tax service authority, passed upon the results of considering the complaint against the notice (hereinafter for the purposes of this Article, amounts assessed on notices specified in sub-paragraphs 1) and 3 of this paragraph - assessed amount).

2. Accounting for assessed amounts shall be carried out in the official account by specifying the date of completion of the tax audit and subject to deadlines for the submission of a complaint in accordance with the procedure established by Chapters 93 and 94 of this Code.

When a taxpayer submits a statement of consent with the notifications about results of the liquidation tax audit specified in paragraph 3 of Article 608 accounting of the assessed amount is made on the official account of a taxpayer (tax agent) from the date of submission of such statement.

3. In the event of filing a complaint, the assessed amount in the official account shall be shown on the date and level of filing such complaint, of the taxpayer (tax agent), and also subject to a decision passed upon the results of considering the complaint.

4. Assessed amount shall be shown in the official account of the taxpayer (tax agent) subject to suspension of the period for its implementation within the period and



dates provided for the submission and processing of a complaint. Methods of securing of tax obligation not implemented in time and measures for the enforced collection shall not be applied to such assessed amounts.

5. In the event that the taxpayer (tax agent) upon the expiry of a period for the filing of a complaint, such complaint has not been filed, an accounting Footnote shall be made in the official account of the taxpayer (tax agent) for restoring the assessed amount for which period of fulfillment was suspended previously. In that respect, accounting for assessed amounts shall be maintained by showing amounts in the balance of settlements of the official account.

**Footnote. Article 591, as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010).**

**Article 592. Accounting for the paid, credited, refunded taxes and other obligatory payments to the budget, obligatory pension contributions and social assessments**

1. Accounting for paid, credited refunded taxes and other obligatory payments to the budget, transferred and refunded amounts of obligatory pension contributions and social assessments in the official accounts of the taxpayer (tax agent) shall be on the basis of payment documents received from the authorized state bodies as follows:

1) On payment of taxes and other obligatory payments to the budget, obligatory pension contributions and social assessments, fines, penalties;

2) On credits and refunds of amounts of taxes, other obligatory payments to the budget, penalties, fines that were carried out;

3) On credits and refunds of excess amounts of value-added tax to be offset over the amount of the assessed tax;

4) On credits, refunds of amounts of tax, other obligatory payments to the budget, obligatory pension contributions and social assessments paid by mistake;

5) On collected amounts of tax arrears, arrears relating to obligatory pension contributions and social assessments.

2. When deadlines for the implementation of a tax liability relating to payment of tax is changed in accordance with the procedure established by Article 47 of this Code, in the official account of the taxpayer the amount of tax for which date of payment of the tax liability was changed shall be recorded in view of the schedule for its payment. No method of securing unperformed in-time tax liabilities shall be imposed upon the taxpayer by the tax authority, except for the assessment of penalties, and enforced collection measures, during the period of changed dates for the payment of the tax.

3. Recording paid amounts of tax and (or) another obligatory payment to the budget in foreign currency in accordance with paragraph 9 of Article 31 of this Code

shall be carried out in the official account of the taxpayer (tax agent) in the national currency on the basis of the payment documents presented by the authorized state body for the implementation of the budget.

**Article 593. Accounting for penalties, fines**

1. Amounts of penalties assessed in accordance with the procedure established by Article 610 of this Code shall be shown in the official account of the taxpayer (tax agent) by specifying the period for which it was assessed.

2. Accounting for fines imposed for administrative offences in the sphere of taxation and also for violation of the Republic of Kazakhstan legislation concerning pension support and obligatory social insurance, shall be carried out on the basis of the resolution on imposition of the administrative punishment.

3. Assessed amounts of fines taxes shall be shown in the official account of the taxpayer (tax agent) in respect of appropriate taxes and other obligatory payments to the budget in which violations were made.

4. Balances of settlements for penalties, fines relating to taxes, other obligatory payments to the budget, obligatory pension contributions and social assessments shall be computed in accordance with the procedure established by the authorized body.

5. Accounting for penalties, fines on the results of tax audits in the official account of the taxpayer (tax agent) shall be carried out in accordance with the procedure established by Article 591 of this Code.

**Article 594. Performance of the reconciliation of settlements relating to taxes and other obligatory payments to the budget, obligatory pension contributions and social assessments**

1. Pursuant to requests of the taxpayer (tax agent) the tax authority within one working day shall carry out reconciliation of settlements by of tax, other obligatory payments to the budget, obligatory pension contributions and social assessments. Upon the completion of the reconciliation, on the same day, except for the cases established by this Article, a reconciliation protocol shall be issued to the taxpayer in accordance with the form approved by the authorized body.

2. The reconciliation of protocol shall be compiled by the tax authority in two copies by specifying the information from the official account of the taxpayer (tax agent) and data of the taxpayer (tax agent).

3. Where there are no discrepancies in the reconciliation protocol in accordance with the data of the taxpayer (tax agent) and the tax authority, the reconciliation protocol shall be signed by the official person who is in charge of accounting of the tax authority and by the taxpayer (tax agent). One copy of the reconciliation protocol shall be handed to the taxpayer; the second copy shall be kept by the tax authority.

4. Where there are discrepancies between the data of the taxpayer (tax agent) and data of the tax authority, the date, amounts and reasons for discrepancies shall be specified. Within three working days from the date of establishing discrepancies the tax authority and the taxpayer (tax agent) shall take steps for the elimination of differences that emerged by appropriate correction of data of the official account of the taxpayer (tax agent) where appropriate.

5. Upon completion of elimination of differences, the tax authority shall compile another reconciliation protocol and deliver it to the taxpayer (tax agent) in accordance with the procedure established by this Article.

#### **Article 595. Transfers of Personal Accounts of Taxpayers (Tax Agents)**

1. Transfers of official accounts of taxpayers (tax agents) from one tax authority to another shall be carried out in the following cases:

1) Changes in:

Place of residence (presence) of an individual;

Place of location of Individual entrepreneur, advocate, notary, private officer of justice;

Resident legal entity, its structural subdivisions and also structural units of nonresident legal entities;

Nonresident legal entity carrying on business in the Republic of Kazakhstan through a permanent establishment without opening an affiliate, representative office;

Dependent agent who is recognized as a permanent establishment of a nonresident in accordance with paragraph 5 of Article 191 of this Code;

Nonresident who is a tax agent in accordance with paragraph 5 of Article 197 of this Code.

A transfer of the official account of a taxpayer (tax agent) in accordance with this sub-paragraph shall be carried out on the grounds specified in paragraph 1 of Article 563 of this Code;

2) In case of reorganization of a legal entity - on the basis of information of the National Register of business-identification numbers;

2-1) in case of switching to the procedure for payment of corporate income tax and submission of a declaration on it by a nonresident legal entity cumulatively on a group of permanent establishments in the Republic of Kazakhstan of the nonresident legal entity through one of its permanent establishments - on the basis of notification specified in paragraph 1 of Article 200 of the Code;

3) When deregistering a structural unit of a legal entity - on the basis of information from the National Register of business identification numbers.

2. A transfer of the official account of a taxpayer (tax agent) from one tax authority to another tax authority shall be carried out within ten working days from the date of

emergence of reasons for such transfer of the official account as specified in paragraph 1 of this Article.

3. The transfer of an official account of a reorganized legal entity to the tax authority in the place of registration accounting of the legal successor (successors) shall be carried out as follows:

- 1) In case of a merger, acquisition - on the basis of the transfer protocol;
- 2) In case of division, appropriation - on the basis of a division balance sheet.

The transfer of the official account of a reorganized legal entity in reorganization of a legal entity by way of division shall be carried out after the completion of the tax audit and presentation of results of the tax audit in the official account of the reorganized legal entity.

4. The transfer of the official account of a structural unit of a legal entity shall be to the tax authority in the place of registration accounting of the legal entity on the basis of the information of the National Register of business-identification numbers.

5. The official account shall be transferred for the period from beginning of current year until the date of its closure in the transferring tax authority, and also for previous five years.

6. Within ten working days after the transfer of the official account of a taxpayer (tax agent), the documents of the taxpayer (tax agent) relating to the performance of the tax obligation, as well as duties of computation, withholding and transferring obligatory pension contributions and payment of social assessments, shall be transferred to the tax authority to which the official account was transferred.

**Footnote. Article 595 is amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010), dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010), dated 21.07.2011 No. 467 -IV (shall be enforced from 01.01.2012).**

#### **Article 596. Termination of obligations associated with payment of a fine by virtue of expiry of the statute of limitations for the implementation of the resolution**

The amount of a fine in accordance with the resolution for the imposition of an administrative punishment for offences in the sphere of taxation as well as the legislation of the Republic of Kazakhstan on pension coverage, on mandatory social insurance, the implementation of which is impossible due to expiry of the statute of limitations on the implementation of the resolution as established by the legislation of the Republic of Kazakhstan shall be subject to write-off by the tax authority from the official account of a taxpayer (tax agent) on the basis of a decision of the tax authority.

**Footnote. Article 596 is in wording of the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010).**

## **Article 597. Closure of official accounts of taxpayers (tax agents)**

Closure of the official accounts of taxpayers (tax agent) shall be carried out in accordance with the following procedure:

1) In case of a legal entity, its structural unit, and also structural unit of a nonresident legal entity, - when excluding a legal entity from the State Register of legal entities and deregistering a structural unit from registration accounting.

Closure of an official account of such taxpayer (tax agent) shall be carried out on the basis of information of the authorized state body;

2) In case of an individual entrepreneur - when deregistering from registration accounting as individual entrepreneur;

Closure of an official account of such individual entrepreneur shall be carried out in the basis of a tax application on deregistration as individual entrepreneur;

3) In case of a private notary, private officer of justice, advocate - when deregistering as private notary, private officer of justice, advocate.

Closure of the official account of a private notary, private officer of justice, advocate shall be on the basis of the tax application on deregistration as private notary, private officer of justice, advocate;

4) of a nonresident legal entity carrying out business in the Republic of Kazakhstan through a permanent establishment without opening an affiliate, representative office, nonresident carrying out business through a dependent agent or who is a tax agent - on the grounds specified in paragraph 1 of Article 564 of this Code.

5) In case of an individual:

When rights to taxable objects and (or) objects relating to taxation are terminated, - on the basis of information from the authorized state bodies or a tax application for deregistration of taxable objects and (or) objects relating to taxation, by attaching confirmation documents;

In case of departure from the Republic of Kazakhstan for permanent residence, - on the basis of the information from the authorized state body in the case of absence of unfulfilled tax obligations;

In case of demise or announcement as deceased in accordance with a court decision that entered into force, - on the basis of information from the authorized state bodies.

Upon expiry of current year after drawing results of the computed, assessed, reduced, paid, offset, returned amounts, the balance of settlements shall be posted into the official account of the forthcoming year.

**Footnote. Article 597 is amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).**

**Article 598. The procedure for the presentation of information on absence (presence) of tax arrears, arrears relating to obligatory pension contributions and social assessments**

1. A tax payer (tax agent) has the right to file to the tax authority in the place of registration accounting a tax application in order to obtain information on absence and (or) presence of tax arrears, arrears relating to obligatory pension contributions and social assessments.

2. The tax authority shall release information on absence (presence) of tax arrears, arrears relating to obligatory pension contributions and social assessments by way of compiling and handing to the tax payer (tax agent) of the following:

1) Certificate on absence of tax arrears, arrears relating to obligatory pension contributions and social assessments (hereinafter for the purposes of this Article - certificate on absence of arrears), intended for the state registration of liquidation, termination of functioning of a structural unit and permanent establishment of a nonresident legal entity, reorganization of a legal entity by way of division, deregistration of a structural unit of a legal entity, in the case of departure of a taxpayer from the Republic of Kazakhstan for permanent place of residence;

2) Certificates on absence (presence) of tax arrears, arrears relating to obligatory pension contributions and social assessments (hereinafter for the purposes of this Article - certificate on absence (presence) of arrears), for other purposes, except for those specified in sub-paragraph 1) of this paragraph.

3. The tax authority shall compile a certificate on absence of arrears, certificates on absence (presence) of arrears taking into account information from personal accounts opened by the tax authorities in the place of registration accounting of the taxpayer (tax agent), as follows:

1) To legal entities - in the place of location of the legal entity;

2) To legal entities having structural units - in the place of location of the legal entity, taking into account the balance of settlements in the official account of its structural unit;

3) To a structural unit of a legal entity - in the place of location of the structural unit;

4) To a permanent establishment of a nonresident legal entity - in the place of location of the permanent establishment of the nonresident legal entity;

5) To an individual entrepreneur - in the place of location of such individual entrepreneur;

6) To an individual - in the place of residence or presence, in the place of location of taxable objects and (or) objects relating to taxation.

4. The certificate on absence of arrears, certificate on absence (presence) of arrears shall be certified:

1) If it is issued in hard copy - with the signature of the chief officer, substitute of the chief officer or deputy chief officer and seal of the tax authority issuing the certificate;

2) If it is issued in electronic form - with electronic digital signature of the competent authority.

**Note of the RCLII!**

**This paragraph is effective from 01.01.2012.**

In that case the tax authority shall issue a certificate on absence of arrears, certificate on absence (presence) of arrears made in hard copy to the taxpayer against signature in the document issuance register.

5. The tax authority shall release certificates on absence of arrears, unless otherwise specified by this Article, certificates on absence (presence) of arrears within the following periods:

1) No later than three working days from the date of filing the tax application for obtaining a certificate, - to a legal entity not having a structural unit, to a structural unit of a legal entity, permanent establishment of the nonresident legal entity, to individual entrepreneur, individuals;

2) No later than five working days from the date of filing a tax application, - to a legal entity having a structural unit.

6. In case of liquidation of a taxpayer, a certificate on absence of arrears shall be issued by the tax authority within the following periods:

1) Within five working days from the date of submission to the tax authority of the documents specified in paragraph 12 of Article 37 of this Code, - to a legal entity, structural unit and permanent establishment of a nonresident legal entity;

2) Within three working days from the date of submission to the tax authority of documents specified in paragraph 6 of Article 38 of this Code, - to a structural unit of a resident legal entity.

7. In case of reorganization of a legal entity by way of division, a certificate on absence of arrears shall be issued by the tax authority within five working days from the date of submission to the tax authority of documents specified in Article 40 of this Code.

8. Certificates on absence (presence) of arrears shall not be issued in case of failure of the taxpayer (tax agent) or its structural units to present tax reports for the period at the date of filing the tax application, except for cases of extension of periods for the submission of tax reports.

**Footnote. Article 598 is amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009) from 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).**

**§ 1. Offset and refund of taxes, other obligatory payments to the budget, penalties and fines.**

**Article 599. Credit of Amounts of Taxes, Levies and Fines Paid In Excess**

1. Credit of amounts of taxes, levies and penalties paid in excess shall be carried out pursuant to a tax application for credit and refund of taxes, other obligatory payments, custom payments, penalties and fines (hereinafter for the purposes of this Articles and Article 600 of this Code - tax application for credit), unless otherwise established by this Article, and also for other reasons as specified by this Article and Article 600 of this Code.

2. Excess amount of tax, levy, penalty paid shall be understood as the positive difference between the amounts of the tax paid to the budget (subject to credited and refunded amounts) and amounts computed, assessed (considering reduced) amounts, for the tax period subject to settlements relating to a given of tax, levy, penalty for previous tax periods.

Also amounts of tax due to be refunded to a nonresident taxpayer in accordance with Article 217 of this Code, shall be recognized as amount of tax paid in excess.

3. For the purposes of this Article and Articles 600, 602 of this Code, payment for the use of land plots, water resources from surface sources, discharges into the environment, use of radio-frequency spectrum, providing long-distance and (or) international telephone communications, and also cellular communications, shall be recognized as levies.

4. Credit of amounts of taxes, levies, penalties paid in excess shall be carried out in the national currency by the tax authority where in the official account of the taxpayer the amount paid in excess is accounted for.

5. Excess amounts of taxes, levies, penalties paid, shall not be subject to offset towards repayment of tax arrears of another taxpayer, except for the cases specified in paragraphs 13-16 of this Article.

6. No credit of excess amounts of excise duty on excisable goods which are subject to marketing with accounting registration stamps shall be made towards repayment of tax arrears relating to this and others of taxes, levies, except for cases of termination of the taxpayer' business of producing those goods.

7. In case of extension of the period for the submission of tax reports, crediting excess amounts of that tax paid shall not be carried out until the date of their presentation.

8. Period for conducting crediting shall be ten working days as follows:

Pursuant to a tax application for offset - from the date of submitting such application to the tax authority;

Without an application - from the date of formation of an excess amount in the official account.



9. In case of violation by the tax authority of deadlines for conducting crediting pursuant to a tax application for crediting, the tax authority shall assess in favor of the taxpayer (tax agent) penalty on excess amount of tax for which crediting was carried out in violation of deadlines. Penalty shall be assessed in an amount of 2.5 times the official rate of refinancing as established by the National Bank of the Republic of Kazakhstan, for each day of a delay, beginning on the day following the end of the period for conducting the crediting, including the date of completion of the crediting.

10. Amount of penalty assessed in favor of a taxpayer shall be subject to transfer into the taxpayer's bank account as specified in the tax application for the offset, on the day of completing the crediting of excess amounts of tax, levy paid, at the expense of budget receipts under the relevant code of the budgetification.

11. Excess amounts of tax, levy shall be subject to obligatory offset towards repayment of tax arrears in accordance with the following procedure:

1) Without the taxpayer's application - towards repayment of the following:

Penalty on that of tax, levy;

Fine relating to that of tax, levy;

2) Pursuant a tax application for crediting - towards repayment of the following:

Shortage relating to that of tax, levy which is specified by the taxpayer in the tax application for crediting;

Penalty relating to that of tax, levy which is specified by the taxpayer in the tax application for crediting;

Fine relating to that of tax, levy which are specified by the taxpayer (tax agent) in the tax application for crediting;

Forthcoming payments relating to that of tax, levy which are specified by the taxpayer in the tax application for crediting, unless otherwise established by paragraphs 13, 15 of this Article.

12. Excess amounts of penalty paid to the budget shall be subject to credit in accordance with the following procedure:

1) Without the taxpayer (tax agent's) application - towards repayment of the following:

Shortage relating to this of tax, levy;

Fines relating to this of tax, levy;

2) Pursuant to a tax application for crediting - towards repayment of the following:

Shortage relating to that of tax, levy which is specified by the taxpayer in the tax application for crediting;

Penalty relating to that of tax, levy which is specified by the taxpayer in the tax application for crediting;

Fine relating to that of tax, levy which are specified by the taxpayer in the tax application for crediting;

Forthcoming payments relating to the tax, levy which are specified by the taxpayer in the tax application for crediting, unless otherwise established by paragraphs 14, 16 of this Article.

13. On the basis of a tax application for crediting, excess amounts of tax, levy paid by a legal entity, after conducting the crediting, in accordance with the procedure established by paragraph 11 of this Article, shall be subject to credit towards repayment of the following:

- 1) Shortage of a structural unit relating to the tax, levy;
- 2) Penalty of a structural unit relating to a given tax, levy;
- 3) Fine of a structural unit relating to a given tax, levy;
- 4) Shortage of a structural unit relating to a tax, levy which is specified by the taxpayer in the tax application for crediting;
- 5) Penalty of a structural unit relating to a tax, levy which is specified by the taxpayer in the tax application for crediting;
- 6) Fine of a structural unit relating to a tax, levy which is specified by the taxpayer in the tax application for crediting.

14. On the basis of a tax application for crediting, excess amount of penalty paid by a legal entity, after conducting the crediting in accordance with the procedure established by paragraph 12 of this Article, shall be subject to credit towards repayment of the following:

- 1) Shortage of a structural unit relating to that of tax, levy;
- 2) Penalty of a structural unit relating to a given tax, levy;
- 3) Fine of a structural unit relating to a given tax, levy;
- 4) Shortage of a structural unit relating to a tax, levy which is specified by the taxpayer in the tax application for crediting;
- 5) Penalty of a structural unit relating to a tax, levy which is specified by the taxpayer in the tax application for crediting;
- 6) Fine of a structural unit relating to a tax, levy which is specified by the taxpayer in the tax application for crediting.

15. On the basis of a tax application for crediting, excess amounts of tax, levy of a structural unit of a legal entity after conducting crediting in accordance with the procedure established by paragraph 11 of this Article, shall be subject to credit towards repayment of the following:

- 1) Shortage of the legal entity relating to that of tax, levy;
- 2) Penalty of the legal entity relating to a given tax, levy;
- 3) Fine of the legal entity relating to a given tax, levy;
- 4) Shortage of the legal entity relating to a tax, levy which is specified by the taxpayer in the tax application for crediting;

5) Penalty of the legal entity relating to a of tax, levy which is specified by the taxpayer in the tax application for crediting;

6) fine of the legal entity relating to a of tax, levy which is specified by the taxpayer in the tax application for crediting.

16. On the basis of the tax application for crediting, excess amounts of penalty of the structural unit of a legal entity after conducting the crediting in accordance with the procedure established by paragraph 12 of this Article, shall be subject to credit towards repayment of the following:

1) Shortage of the legal entity relating to that of tax, levy;

2) Penalty of the legal entity relating to a given of tax, levy;

3) Fine of the legal entity relating to a given of tax, levy;

4) Shortage of the legal entity relating to a of tax, levy which is specified by the taxpayer in the tax application for crediting;

5) Penalty of the legal entity relating to a of tax, levy which is specified by the taxpayer in the tax application for crediting;

6) fine of the legal entity relating to a of tax, levy which is specified by the taxpayer in the tax application for crediting.

**Footnote. Article 599 is amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

**Article 600. Credit of excess amounts of value-added tax to be offset over the amount of the assessed tax**

Crediting that is subject to refunding from the budget in accordance with Articles 273 and 274 of the Code of excess amounts of value-added tax to be credited, over the assessed amount of the tax shall be carried out by the Tax Authority in the place of location of the value-added tax payer in accordance with the procedure established by Article 599 of this Code for conducting crediting excess amounts of taxes, levies, penalties.

**Footnote. Article 600 is amended by the Law of the Republic of Kazakhstan dated from 30.06.2010 No. 297-IV (shall be enforced from 01.01.2009).**

**Article 601. Credit, refund of amounts of tax, other obligatory payments to the budget, paid by mistake**

1. Crediting amounts of tax, other obligatory payments to the budget paid by mistake, shall be carried out pursuant to the following:

1) Tax applications submitted by the taxpayer (tax agent) for conducting crediting, refund of tax, other obligatory payments, custom payments to the budget, penalties and

finances (hereinafter for the purposes of this Article - tax application on mistaken amounts), submitted by the taxpayer (tax agent);

2) Applications filed by banks and organization's carrying out certain banking transactions (hereinafter - for the purposes of this Article - application of the bank);

3) Protocol on reasons why wrong amounts of tax, other obligatory payment to the budget (hereinafter for the purposes of this Article - protocol on mistakes) emerged, compiled by the tax authority, in the case of finding mistakes.

2. Credits, refund of amounts of tax, other obligatory payment to the budget paid by mistake, on the grounds specified as follows:

1) In sub-paragraphs 1), 2) of paragraph 1 of this Article, shall be within ten working days from the date of filing a tax application on mistaken amounts, application of the bank;

2) In sub-paragraph 3) of paragraph 1 of this Article, shall be within thirty calendar days from the date of finding facts of mistaken payment of tax, another obligatory payment to the budget, fines, penalties.

3. Tax applications for mistaken amounts, applications of the bank shall be presented to the tax authority to which mistaken payment of tax, another obligatory payment to the budget was made.

4. Amounts in the transfer of which any of the following mistakes were made, shall be understood as amount of tax, another obligatory payment to the budget paid by mistake:

1) In the payment document:

Wrong taxpayer (tax agent) identification number;

Wrong identification number of the tax authority;

Text of payment does not match the purpose of payment and (or) the budgetification code of income;

2) Inaccurate processing by the bank or organization carrying out certain banking transactions, of the payment document of the taxpayer (tax agent);

3) Payment is made to the tax authority where the taxpayer the payer of the funds is not registered and (or) is not in registration accounts;

4) The taxpayer who is the payer of the funds is not a payer of that of tax or another obligatory payment to the budget.

5. In the case of confirmation by the tax authority of a mistake of those specified in paragraph 4 of this Article, which tax authority shall:

1) Carry out crediting of an amount paid by mistake into appropriate code of the budgetification and (or) to appropriate tax authority;

2) Carry out refund into the bank account of the taxpayer.

6. In case of erroneous processing by the bank or organization carrying out certain banking transactions, of a payment document of a taxpayer (tax agent), which led to

a repeat transfer of an amount of tax, another obligatory payment to the budget on one payment document, the tax authority pursuant to the application of the bank, shall carry out refund of an amount paid by mistake, provided the fact of a mistake is confirmed.

7. In case of non-confirmation by the tax authority of mistakes specified in paragraph 4 of this Article, such tax authority on the grounds specified in sub-paragraphs 1) and 2) of paragraph 1 of this Article, shall forward to the taxpayer a written notice on non-confirmation of mistakes.

8. In case of a wrong inscription by the taxpayer (tax agent) of an identification number in a payment document, the tax authority on the basis of a tax application for concerning wrong amounts of tax, shall carry out a refund of amounts paid by mistake to the taxpayer, into the taxpayer's bank account specified in the taxpayer's payment document.

**Footnote. Article 601 is amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

#### **Article 602. Refund of amounts of tax, payments, fines, paid in excess**

1. Refund of an excess amounts of tax, levies, penalties shall be carried out pursuant to the tax applications for conducting crediting, refund of tax, other obligatory payments, custom payments, penalties and fines (hereinafter - for the purposes of this Article - application or refund), unless otherwise established by this Article.

2. Refund of excess amounts of tax, levy, and penalty shall be carried out by the tax authority which maintains official accounts of the taxpayer relating to such tax, levy, and penalty.

3. Refund of excess amounts of tax, levy, and penalty shall be carried out within fifteen working days from the date of filing an application for refund, unless otherwise established by this Article or Code.

4. Refund of excess amounts of tax, levy, and penalty shall be carried out after conducting a credit as specified in Article 599 of this Code.

5. Refund of excess amounts of tax, levy, and penalty shall be carried out in the national currency into the bank account of the taxpayer (tax agent) in the case of absence of tax arrears, on the basis of the resolution of the tax authority in accordance with the form established by the authorized body. In the event that the taxpayer is a legal entity, refund of excess amounts of tax, levy, penalty paid, shall be carried out in the case that its structural units have no tax arrears.

6. Refund of excess amounts of excise duty on excisable goods which are subject to marketing with accounting registration stamps, shall not be carried, except for cases of termination of such taxpayer's business of producing those goods.

7. In the case of violation by the tax authority of deadlines for conducting refund relating to an excess amount of tax, levy of which the refund made in violation of the

deadlines, the tax authority shall assess penalty in favour of the taxpayer for each day of a delay. Penalty shall be assessed in an amount of 2,5-times official rate of refinance as established by the National Bank of the Republic of Kazakhstan, for each day of a delay, beginning on the day following the expiry of the period for conducting crediting, including the day of refund.

8. Amounts of penalty assessed in favour of the taxpayer shall be subject to transfer into the bank account of the taxpayer as specified in the tax application for refund, on the date of refund of excess amount of tax, levy paid, at the expense of budget revenues in accordance with the relevant code of the budgetification.

**Footnote. Article 602 is amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

**Article 603. Refund of an excess amount of value-added tax to be offset over the assessed amount of the tax**

1. Refund of excess amounts of value-added tax to be credited, over the assessed amount of the tax (hereinafter for the purposes of this Article - excess value-added tax) shall be carried out pursuant to the value-added taxpayer's claim of refund of excess amounts of value added tax as specified in the value-added tax declaration in accordance with Articles 273 and 274 of this Code after conducting the offset as specified in Article 600 of this Code, provided the conditions specified by this Article are observed.

2. Excess value-added tax to be refunded in accordance with Article 273 and 274 of this Code, must not exceed total overpayment in the official account of the value-added tax payer, except for the nonrefundable VAT excess amount, as of the date of the compilation by the tax authority of the resolution for refund of excess value-added tax and as of the end of the tax period in the declaration for which the claim of value-added tax refund is stated, less amount of value-added tax to be paid to the budget as shown in the declarations for subsequent tax periods.

3. Refund of excess value-added tax shall be on the basis of the value-added tax payer's location, into the taxpayer's bank account, in absence of tax arrears, within the period for refund of excess value-added tax as provided for by this Code.

4. In the case of violation by the tax authority of periods for refund of excess value-added tax, on such excess amount of which the refund was made in violation of deadlines, the tax authority shall assess penalties in favour of the taxpayer. Penalty shall be assessed in an amount of 2,5-times official rate of refinance as established by the National Bank of the Republic of Kazakhstan, for each day of a delay, beginning on the day following the expiry of the period for refund, including the day of refund.

5. Amounts of penalties assessed in favour of a taxpayer, shall be transferred into the bank account of the taxpayer on the day of refund of excess amount of value-added

tax, at the expense of budget receipts in accordance with the relevant code of the budgetification.

Footnote. Article 603 is amended by the Law of the Republic of Kazakhstan dated 12.02.2009 N 133-IV (the order of enforcement See Article 2) dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009; dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).

#### **Article 604. Refund of value-added tax on other bases**

1. The following amounts of value-added tax shall be subject to refund from the budget on the bases specified in the special part of this Code:

- 1) Paid on goods, work, services purchased at the expense of funds of a grant;
- 2) Paid to diplomatic representative offices and those equated to them, accredited in the Republic of Kazakhstan.

2. Refund of value-added tax to be refunded to a recipient of a grant, shall be carried out by the tax authority in the place of location of such grant recipient into such grant recipient's bank account after conducting credits in accordance with Article 599 of this Code during the period of refund as established by Article 275 of this Code.

3. The tax authority shall refund the value-added tax to diplomatic and equated representative offices of foreign states, consular institutions of a foreign state accredited in the Republic of Kazakhstan, and personsified as diplomatic, administrative and technical personnel of the representative offices, including the members of their families residing together with them, consular officers including the members of their families residing together with them to their bank account within the terms and in accordance with the procedure established by Article 276 of this Code.

Footnote. Article 604 is amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).

#### **Article 605. Refund of paid amount of a fine**

1. Refund of paid amounts of a fine, due to its abolition or change in the amount, shall be carried out on the basis of a tax application for conducting offset and refund of taxes, other obligatory payments, custom payments, penalties and fines (hereinafter for the purposes of this Article - application for refund of amounts of fines), to which the following documents must be attached:

- 1) Resolution on imposition of an administrative punishment;
- 2) Document confirming the payment of the fine;
- 3) Act of the court or superior authority (official person) on alteration of the amount of fine or abolition of the resolution on imposition of administrative punishment on the basis of which a fine was imposed unlawfully;



4) Other documents confirming unlawful imposition of a fine.

2. An application for refund of amounts of fine shall be filed by the taxpayer to the tax authority in the place of payment no later than one year from the date of inclusion of the amount of fine into the budget, and in the case of a resolution on imposition of a fine for violations in the sphere of taxation, - no later than five years.

3. Refund of a paid amount of fine shall be carried out by the tax authority within thirty calendar days from the date of the submission by the taxpayer (tax agent) of the application for refund of amount of fine.

4. Refund of a paid amount received into codes of the budgetification for accounting for amounts of fines in accordance with the Republic of Kazakhstan legislation on administrative offences shall be carried out by the tax authority within thirty calendar days from the date of submission by the taxpayer (tax agent) of the application for refund of amounts of fine, to which the following must be attached:

1) Document confirming payment of said amount;

2) Document of the authority carrying out accounting for administrative offences and persons who committed them, confirming the absence of the fact of holding the person responsible through the administrative procedure within the framework of the application received for refund of amounts of fine.

**Footnote. Article 605 is amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

#### **Article 606. Refund of paid amount of other obligatory payments to the budget**

Refund of paid amounts of other obligatory payments to the budget on the bases not specified in Articles 601-602 of this Code shall be carried out in accordance with the procedure and on the bases which are established by the Special part of this Code.

### **Chapter 84. THE NOTICE CONCERNING THE FULFILLMENT OF TAX OBLIGATIONS RELATING TO THE ASSESSMENT, WITHHOLDING AND TRANSFER OF OBLIGATORY PENSION CONTRIBUTIONS, ASSESSMENT AND PAYMENT OF SOCIAL ASSESSMENTS**

#### **Article 607. General provisions**

1. A message forwarded by the tax service authority to a taxpayer (tax agent) on paper or with the taxpayer (tax agent's) consent by an electronic method, concerning the necessity of the fulfillment by the latter of tax obligations, obligations relating to the assessment, withholding and transfer of obligatory pension contributions and assessment and payment of social assessments, shall be recognized a notice. Forms of notices shall be established by the authorized body.



2.s of notices shall be limited by those listed hereunder and they shall be forwarded to taxpayers (tax agents) within the following periods:

1) Concerning taxes assessed by the tax authority in accordance with paragraph 2 of Article 32 of this Code, - no later than ten working days from the date of such assessment;

2) Concerning results of a tax audit - no later than five working days from the date of delivery to the taxpayer of the act on the tax audit, except for the case specified in paragraph 4 of Article 638 of this Code;

3) Concerning assessed amounts of taxes and other obligatory payments to the budget, obligatory pension contributions, social assessments for the period from the date of submitting the liquidation tax reports until the date of completion of the liquidation tax audit -no later than five working days from the date of delivery to the taxpayer (tax agent) of the act on the liquidation tax audit;

4) Concerning non-submission of tax reports within time established by the tax legislation of the Republic of Kazakhstan, no later than ten working days from the date established by this Code for its presentation;

5) Concerning repayment of tax arrears - no later than ten working days prior to beginning to apply methods of ensuring the fulfillment of tax obligations not fulfilled in time, as provided for by sub-paragraphs 2)-4) of paragraph 1 of Article 609 of this Code and measures of enforced collection;

6) Concerning the application of a claim on funds in bank accounts of debtors, - no later than twenty working days prior to the application of claim;

7) Concerning elimination of violations found by the tax service authorities upon results of the in-house supervision, - no later than ten working days from the date of finding violations in the tax reports;

8) Concerning results of processing a complaint of the taxpayer (tax agent) against a notice on results of a tax audit and (or) decision of the superior tax service authority, passed upon the results of processing a complaint on a notice, - no later than five working days from the date of taking a decision on such complaint;

9) Concerning elimination of violations of the tax legislation of the Republic of Kazakhstan - no later than five working days from the date of their finding;

10) Concerning confirmation of location (absence) of a taxpayer - no later than three working days from the date of the compilation by the officials of the tax service authority of the act on tax inspection.

3. The following must be specified in a notice:

1) Identification number;

2) Surname, name, patronymic (where available) or full business name of the taxpayer;

3) Name of the tax service authority;

- 4) Date of notice;
- 5) Amount of the tax obligation and (or) obligations associated with the assessment, withholding and transfer of obligatory pension contributions and assessment and payment of social assessments - in the cases established by this Code and (or) legislative acts of the Republic of Kazakhstan;
- 6) Requirement to fulfill a tax obligation and (or) obligations relating to obligations associated with the assessment, withholding and transfer of obligatory pension contributions and assessment and payment of social assessments;
- 7) Basis for forwarding the notice;
- 8) Procedure for appeal.

4. In the case specified in sub-paragraph 1) of paragraph 1 of Article 608 of this Code, the tax authorities shall send to the taxpayer (tax agent) the copies of notices specified in sub-paragraphs 4) and 5) of paragraph 2 of this Article.

In order to receive the original copy of notices specified in sub-paragraphs 4) and 5) of paragraph 2 of this Article, the taxpayer (tax agent) has the right to address the tax authorities.

**Footnote. Article 607 is amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010) of 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 608. The Procedure for delivery and implementation of a notice**

1. A notice shall be delivered by the tax payer (tax agent) personally by the receipt of signature or by other methods confirming the fact of sending and receiving, unless otherwise established by this Article.

In that respect a notice sent by one of the following methods, shall be deemed to be delivered to the taxpayer (tax agent) in the following cases:

- 1) By mail by registered letter with a notice - from the date of the Footnote by the taxpayer (tax agent) in the notification of the postal or another communications organization;
- 2) By an electronic method - from the date of delivery of the notice by the tax service authority to the web-based application.

This method shall be for the taxpayers registered as electronic taxpayers in accordance with the procedure established by Article 572 of this Code.

1-1. Unless otherwise established by paragraph 1-2 of this Article in case of return by a postal or any other communication organization of the notifications specified in sub-paragraphs 2), 3) of paragraph 2 of Article 607 of the Code forwarded by the Tax Authorities to the taxpayer (tax agent) by means of mail by registered letter with a

notice the date of delivery of such notifications shall be the date of execution of the tax inspection engaging witnesses on the grounds and in the procedure established by the Code.

1-2. In case of completion of tax inspection on the basis of tax inspection act in accordance with paragraph 3 of Article 637 of the Code and return by a postal or any other communication organization of the notifications specified in sub-paragraphs 2), 3 ) of paragraph 2 of Article 607 of the Code, forwarded by the Tax Authorities to the taxpayer (tax agent) by means of mail by registered letter with notice, the date of delivery of such notifications shall be one of the following dates:

the date of return of such letter by a postal or any other communication organization - in case when a taxpayer (tax agent) has no bank account;

the date that comes after five working days from the date of return of such letter by a postal or any other communication organization,

in case that within such period the notification was not delivered to the taxpayer (tax agent) with written acknowledgement of receipt -

upon the availability of a bank account of the taxpayer (tax agent).

2. Unless otherwise specified by paragraph 3 of this Article, in case the tax authority sends notices specified in sub-paragraphs 2)-4), 7)-9) of paragraph 2 of Article 607 of this Code, the tax obligation and (or) obligations relating the assessment, withholding and transfer of obligatory pension contributions, assessment and payment of social assessments, shall be subject to implementation within thirty working days from the day following a day of delivery of the notice to the taxpayer (tax agent).

3. In case of complete consent of a taxpayer to the notices on the results of liquidation tax audit specified in sub-paragraphs 2) and 3) of paragraph 2 of Article 607 of this Code the taxpayer shall submit a statement about such consent with attached documents confirming fulfillment of tax liabilities in relation to payment of taxes and other mandatory payments to the budget indicated in the notices as well as liabilities in relation to transfer of pension contributions and payment of social assessments.

At the same time a statement of consent with notices about the results of the liquidation tax audit shall be submitted by the taxpayer to the tax authority within twenty-five working days from the day following the day when the notice was delivered.

4. The procedure of delivery and execution of notices established in paragraphs 1, 2 of this Article shall also be applied to copies of notices specified in sub-paragraphs 4), 5) of paragraph 2 of Article 607 of this Code.

5. The tax authority shall deliver the original notices specified in sub-paragraphs 4), 5) of paragraph 2 of Article 607 of this Code to such taxpayer within three working

days after the taxpayer addresses to it in cases specified in paragraph 4 of Article 607 of this Code.

6. A notice provided for by sub-paragraph 10) of paragraph 2 of Article 607 of this Code shall be executed by a taxpayer (tax agent) within twenty working days after the notice is sent.

**Footnote.** Article 608 is in wording of the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010), as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010), dated 07.21.2011 No. 467-IV (shall be enforced from 01.01.2012).

## **Chapter 85. THE METHODS FOR SECURING THE IMPLEMENTATION OF TAX OBLIGATIONS**

### **Article 609. The methods of securing the implementation of tax obligations that were not implemented in time**

1. Execution of tax liability of the taxpayer (tax agent), not made in a timely manner, can be achieved by the following:

1) Assessment of penalty on unpaid amount of tax and other obligatory payments to the budget, including advanced and (or) current payments on them:

2) Suspension of expenditure transactions in bank accounts, except for correspondent accounts, of taxpayers (tax agents) - which are legal entities, structural units of legal entities, nonresidents carrying on business in the Republic of Kazakhstan through a permanent establishment, individual entrepreneurs, private notaries, private enforcement agents and advocates;

3) Suspension of expenditure transactions in the cash department of the taxpayer (tax agent) - which are legal entities, structural units of legal entities, nonresidents carrying on business in the Republic of Kazakhstan through a permanent establishment, individual entrepreneurs, private notaries, private enforcement agents and advocates;

4) Restraint on property disposal of the taxpayer (tax agent) - which is a legal entity, structural unit of a legal entity, nonresident which carries on business in the Republic of Kazakhstan through a permanent establishment, individual entrepreneur, private notary, private officer of justice and advocate.

1-1. If fulfillment of tax obligations in accordance with sub-paragraph 2) of paragraph 3 of Article 308-1 of the Code is imposed on the operator, then means of ensuring performance of a non-fulfilled in time tax obligation:

Specified in sub-paragraph 1) of paragraph 1 of this Article shall be applicable in respect to an operator;

Specified in sub-paragraphs 2) - 4) of paragraph 1 of this Article shall be applied simultaneously in respect to the operator and each member of a simple partnership (consortium).

2. The methods of securing the implementation of a tax obligation that was not implemented in time, which are specified in sub-paragraphs 2)-4) of paragraph 1 of this Article, shall apply within periods established by Articles 611-613 of this Code. Prior to beginning to apply the methods for securing the implementation of a tax obligation that was not implemented in time as specified in sub-paragraphs 2)-4) of paragraph 1 of this Article, a notice shall be forwarded to the taxpayer (tax agent) in accordance with Chapter 84 of this Code.

3. In case of non-payment of tax arrears methods to secure execution of not performed duly tax liability, except for the method, indicated in sub-paragraph 1) of paragraph 1 of this Article, shall not be applied to taxpayers (tax agents), with tax arrears in the size less than six-fold monthly calculation index, established by the law concerning republican budget and effective as of the 1 January of the relevant financial year.

3-1. Unless otherwise specified by this paragraph, the methods of securing execution of undue tax liability shall not be applied in the following cases:

1) Court's recognition of a taxpayer as a bankrupt - from the moment of commencement of proceedings on bankruptcy;

2) The introduction of rehabilitation procedures in respect of a taxpayer - from the effective date of the court's decision concerning application of rehabilitation procedures.

At the same time in the event if taxpayers fail to perform duly their tax liability arising after the introduction of rehabilitation procedure, the methods of enforcement of such obligations in the manner prescribed by this chapter shall be applied to such taxpayers;

3) Forced liquidation:

Of banks, pension funds - from the date of court's initiation of the forced liquidation case;

Insurance (reinsurance) organizations - from the date of court's initiation of the forced liquidation case.

4. In the case of appealing a notice on the results of a tax audit and (or) decision of the superior tax service authority passed upon the results of considering a complaint against a notice, the application of the methods for securing the implementation of a tax obligation that was not implemented in time, except for the method specified in sub-paragraph 4) of paragraph 1 of this Article, shall be suspended until a decision is passed upon the results of considering such complaint.

5. In the case of non-payment by the taxpayer (tax agent) of amounts of fines, the methods for securing the implementation of a tax obligation that was not implemented in time, which are specified in sub-paragraphs 2)-4) of paragraph 1 of this Article, shall be applied without notification of the taxpayer (tax agent) on the basis of the court resolution on enforced collection of amounts of fines.

6. A tax authority applies the methods of enforcement which are not made ??in the period of the tax liability specified in sub-paragraphs 2), 3) and 4) of paragraph 1 of this Article, the taxpayer - legal entity who created this structural unit in the absence of a structural unit of a legal entity or a bank account or a failure in the absence of money of the structural unit of a legal entity on bank accounts and on hand to pay off the tax debt.

The tax authority applies the methods of enforcement, not made ??in outstanding tax obligations referred to in sub-paragraphs 2) and 3) of paragraph 1 of this article, at the same time to all the business units of such entity in the case of non-payment of the tax debt of the structural unit of a legal entity, after being subjected to methods of enforcement, not made ??in the period of the tax liability in the manner described in the first part of this paragraph, if a legal entity has more than one structural unit.

7. For the purposes of this Chapter, accounts of state institutions which are opened in the authorized state body for the implementation of the budget, shall be equated to bank accounts, and the authorized body for the implementation of the budget shall be equated to an organization carrying out separates of banking transactions.

**Footnote.** Article 609 is amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010) dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010),dated 30.06.2010 No. 297 -IV (the order of enforcement See Article 2) dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012); dated 17.02.2012 No. 564-IV (shall be enforced after ten calendar days after its first official publication).

#### **Article 610. Penalty on amounts of tax and other obligatory payments to the budget that were not paid in time**

1. Penalty shall be understood as interest established by paragraph 3 of this Article, to be assessed on amounts of taxes and other obligatory payments to the budget, including advance payments and (or) current payments thereof which were not paid in time.

2. Amounts of penalties shall be assessed and paid regardless of applying other methods of securing the implementation of a tax obligation that was not implemented in time and measures of enforced collection, as well as other measures of responsibility for violation of the tax legislation of the Republic of Kazakhstan.

3. Penalties shall be assessed for each day of a delay in the fulfillment of a tax obligation, beginning on the day following a day of the date for the payment of the tax and another obligatory payment to the budget, as well as advance payments and (or) current payments thereof inclusive, including the day of payment to the budget, in an amount of 2.5-times the official rate of refinancing as established by the National Bank of the Republic of Kazakhstan for each day of a delay, unless otherwise is stipulated by legislative acts of the Republic of Kazakhstan.

4. Penalties shall be assessed on banks or organizations carrying out separates of bank transactions, for non-observance of sequences in writing amounts of taxes and other obligatory payments, including advance payments and (or) current payments thereof, penalties, fines off bank accounts; failure to transfer (failure to include) them into the budget; untimely transfer of amounts written off bank accounts of taxpayers and funds paid in cash to cash departments of banks or organizations carrying out separates of banking transactions, towards payment of taxes and other obligatory payments, penalties, fines, and also income tax deposited in conditional bank deposits, and bank interest assessed, to the budget.

5. In case of a change in the deadlines of the implementation of tax obligations relating to payment of taxes (except for taxes withheld at source of payment and excise duties), extending periods for the submission of tax reports, and also presentation of additional tax reports, penalty shall be assessed on amounts of shortage, beginning on the day following a day of payment of tax as established in the first part of this Code.

6. *Excluded by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (the order of enforcement see Article2)*

7. Penalties shall be assessed on creditors of banks which are liquidated through the enforced procedure, for untimely repayment of amounts of shortages where the only reason for the formation of a shortage was the liquidation of the bank serving them, from the time of entry into force of a decision on enforced liquidation of the bank.

8. Penalty shall not be assessed in the case of entry into force of a court decision on enforced issue of announced shares for the amount of a shortage, for the repayment of which pursuant to a court decision an enforced issue of announced shares was carried out, from the date of filing a law suit application to the court for enforced issue of announced shares and until the completion of their allocation.

9. Penalty shall not be assessed on amounts of a shortage from the date of entry into force of a court decision on recognition of an individual missing until the date of its abolition.

10. Penalty shall not be assessed on penalties and amounts of fines.

11. Penalty shall not be assessed on amounts of shortfalls repaid by way of conducting offsets of excess amount of tax and / or levy paid, from the date of the payment document for conducting the offset.

12. Penalty shall not be assessed in the case of crediting amounts of taxes and other obligatory payments, including advance payments and (or) current payments thereof, to the budget, as follows:

1) From the date of writing off funds by the banks or organizations carrying out certain of banking transactions, from the bank account of the taxpayer (tax agent);

2) From the date of performance of the payment by the taxpayer through a cash machine or other electronic devices;

3) From the date of payment by the taxpayer (tax agent) of said amounts to banks or organizations carrying out separate of banking transactions, authorized state bodies.

13. Penalties shall not be assessed on amounts of shortfalls in proportion to excess amounts of tax and / or levy paid, in the case of violation of the time for conducting crediting as established in paragraph 8 of Article 599 of this Code, provided excess amount of tax and (or) levy is confirmed.

**Footnote. Article 610 is amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (order of enforcement See Article 2) dated 21.07.2011 No. 467 -IV (shall be enforced from 01.01.2012).**

**Article 611. Suspension of expenditure transactions in bank accounts of a tax payer (tax agent)**

1. Suspension of expenditure transactions in bank accounts (except for correspondent accounts) of the taxpayer (tax agent), specified in sub-paragraph 2) of paragraph 1 of Article 609 of this Code, shall be carried out in accordance with the procedure established by the legislative acts of the Republic of Kazakhstan, in the following cases:

1) the day of delivery of the notice specified in sub-paragraph 4) of paragraph 2 of Article 607 of this Code;

2) Failure of the taxpayer to present a tax application for value-added tax registration upon expiry thirty working days from the date of delivery of the notice as specified in sub-paragraph 9) of paragraph 2 of Article 607 of this Code;

3) Failure to repay tax arrears - upon expiry of ten working days from the date of delivery of the notice as provided by sub-paragraph;

5) of paragraph 2 of Article 607 of this Code;

4) Non-admission of officials of the tax service authority to tax audit and inspection of taxable objects and (or) objects relating to taxation, except for the cases of their violation of the procedure established by this Code for conducting tax audits, - within five working days from the date of non-admission;

5) Return by the postal or another communications organization of the notice forwarded in connection with the absence of the taxpayer (tax agent) in the place of location, - within five working days from the date of such return;



6) Non-fulfillment by the taxpayer of the requirement established by part one of the paragraph 5 of the Article 558 of the Code within five working days from the date of expiration of term established by part one of paragraph 5 of Article 558 of the Code;

7) Failure to implement the notice on elimination of violations found as a result of in-house supervision, - upon expiry of five working days from the date of expiry of the period specified in paragraph 2 of Article 587 of this Code.

2. Suspension of expenditure transactions in bank accounts shall apply to all expenditure transactions of the taxpayer (tax agent), except for the following:

1) Transactions associated with payment of taxes and other obligatory payments to the budget provided for by Article 55 of the Code, obligatory pension contributions, social assessments and custom payments provided for by the legislation of the Republic of Kazakhstan;

2) Seizure of funds in the following cases:

On executive writs provided for satisfaction of claims concerning compensation for harm caused to lives and health, as well as claims relating to collection of alimony;

On executive writs providing for seizure of funds for settlements associated with severance benefits and work remuneration with persons who work under employment contracts, payments of interest on copyright agreements, obligations of the client with regard to transfer of obligatory pension contributions to accumulation pension funds and social assessments to the State Fund for Social Insurance;

On repayment of tax arrears, and also on executive writs concerning collection in favour of the state.

3. An ordinance of the tax authority for suspension of expenditure transactions in bank accounts of a taxpayer (tax agent) shall be passed in accordance with the form established by the authorized body in conjunction with the National Bank of the Republic of Kazakhstan and it shall enter into force from the date of its receipt by the bank or organization carrying out certain of banking transactions.

The Tax Authority shall forward such order to banks or organizations carrying out certain of bank transactions, on paper or in the electronic format by means of transmission through information-communication network. When forwarding order of the Tax Authority on suspension of debit operations in the bank accounts of a taxpayer (tax agent) in electronic format such order shall be formed in accordance with formats established by the authorized body jointly with the National Bank of the Republic of Kazakhstan.

4. An ordinance of the tax authority on suspension of expenditure transactions in bank accounts of the taxpayer (tax agent) shall be subject to unconditional implementation by the banks or organizations carrying out certain of banking transactions.

5. An ordinance for suspension of expenditure transactions in bank accounts shall be abolished by the tax authority that passed a decision to suspend expenditure transactions, no later than one working day following a day of elimination of reasons for the suspension of expenditure transactions in bank accounts.

6. In case of closure of the bank account of a taxpayer (tax agent) in accordance with legislation of the Republic of Kazakhstan, the bank or organization carrying out separates of banking transactions shall return the ordinance for suspension of expenditure transactions in the account, to the relevant tax authority together with the notice on closure of the bank account of the taxpayer (tax agent).

**Footnote. Article 611 is amended by the Law of the Republic of Kazakhstan dated 04.07.2009 N 167-IV (shall be enforced from 01.01.2009) of 30.06.2010 No. 297-IV ( shall be enforced from 01.07.2010), from 21.07.2011 No. 467 -IV (shall be enforced from 01.01.2012).**

#### **Article 612. Suspension of cash expenditure transactions of taxpayers (tax agents)**

1. In the case of failure to repay tax arrears within ten working days from the date of receiving a notice for repayment of tax arrears, the tax authority shall carry out suspension of cash expenditure transactions of the taxpayer (tax agent) specified in sub-paragraph 3) of paragraph 1 of Article 609 of this Code shall be carried out towards that taxpayer (tax agent's) tax arrears.

Suspension of cash expenditure transactions of a taxpayer (tax agent) shall apply to all the cash debit operations other than operations connected with:

Handing over the money to a bank or organization engaged in certain of banking operations for further transfer thereof on account of repayment of a tax liability or outstanding compulsory pension and social contributions;

Issue by a bank or organization engaged in certain of banking operations of the customer's cash money.

An ordinance for suspension of cash expenditure transactions of taxpayers (tax agents) shall be compiled in two copies in accordance with the form established by the authorized body, of which one shall be delivered to the taxpayer (tax agent) with the receipt of signature or otherwise confirming the fact of sending and receiving.

2. An ordinance of the tax authority for suspension of cash expenditure transactions shall be subject to unconditional implementation by the taxpayer (tax agent).

3. Taxpayers (tax agents) shall be held responsible for violation of the requirements of this Article in accordance with the legislation of the Republic of Kazakhstan.

4. An ordinance of the tax service authority for suspension of cash expenditure transactions shall be abolished by the tax authority no later than one working day after the full repayment by the taxpayer (tax agent) of tax arrears.

Footnote. Article 612 is amended by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

**Article 613. The restrictions on a disposal of the property of a taxpayer (tax agent)**

1. The tax authority shall impose restrictions on disposal of property of the taxpayers (tax agents), specified in Article 609 paragraph 1 sub-paragraph 4) of this Code, in the event if:

1) The tax liability is not repaid within fifteen working days from the date of receipt of the notice of tax liability repayment;

2) The taxpayer (tax agent), other than a large taxpayer, appeals against the notice of the tax audit results and/or decision made by a superior tax service body on the results of consideration of the appeal against the notice. In the case specified in this sub-paragraph the tax authority imposes restrictions without sending notice of repayment of the tax liability provided for by Article 607 paragraph 2 sub-paragraph 5) of this Code.

2. Unless otherwise is provided for by this paragraph, the tax authority shall impose restrictions on disposal of the property of the taxpayer (tax agent) with respect to the property:

1) Beneficially owned or owned on the basis of economic jurisdiction, and being on the books of the respective taxpayer (tax agent), - in the event specified in paragraph 1 sub-paragraph 1) of this article;

2) Which is a basic asset, investment in immovable property and/or biological asset in accordance with International Accounting Standards and requirements of the legislation of the Republic of Kazakhstan concerning bookkeeping and financial accounting - in the event specified in paragraph 1 sub-paragraph 2) of this Article.

No restrictions shall be imposed on disposal of:

Vital infrastructures;

Electrical, thermal and others of energy;

Food products or raw materials having the period of storage and/or best before date not exceeding one year.

3. The decision of limitation of disposal of property of the taxpayer (tax agent) shall be executed in the form established by the competent authority and is accepted by the tax authority to the amount of:

1) The tax liability according to the data available on the personal account of the taxpayer (tax agent) as on the date of such decision, - in the event specified in paragraph 1 sub-paragraph 1) of this Article;

2) The taxes, other compulsory payments to the budget and penalties appealed against by the taxpayer (tax agent) in accordance with the procedure established by Chapters 93 and 94 of this Code, - in the event specified in paragraph 1 sub-paragraph

2) of this article. The decision of applying restrictions to disposal of the property and the property inventory certificate made on the basis of such decision shall be registered with the tax authority under the same number.

4. The decision of imposition of restrictions on disposal of the property shall be served to the taxpayer (tax agent) personally against receipt or by registered mail with delivery notification. The date of delivery of such decision to the taxpayer shall be:

1) The date of signature of the decision if it is delivered personally against receipt;  
2) The date of the Footnote made by the taxpayer (tax agent) in the notification of the postal or other communication organization if it is sent by registered mail with delivery notification;

3) The date of tax inspection carried out in accordance with the procedure established by Article 558 of this Code if the delivery is not possible due to refusal of signing the acknowledgement of receipt of such decision or due to absence at the place of location.

5. If the decision of imposition of restrictions on disposal of the property is made with respect to the property the title to, or deals with, which shall be subject to state registration, or to the property which is subject to state registration, the tax authority shall send a copy of the decision to the authorized governmental bodies for registration of the encumbrance on the rights to the property specified in this paragraph within five working days from the date of delivery of the decision on the restrictions on disposal of the property to the taxpayer (tax agent).

6. Upon expiry of ten working days from the date of delivery of the decision specified in paragraph 3 of this article to the taxpayer (tax agent), the tax authority shall make inventory of the property on which restrictions have been imposed in the presence of the taxpayer (tax agent) by executing a certificate of property inventory according to the form established by the competent authority.

The inventory of the property on disposal of which restrictions were imposed shall be made with specification of the balance-sheet value determined on the basis of the accounting data of the taxpayer (tax agent) or market value in the property inventory certificate. The market value shall be the value determined in the report of assessment carried out in accordance with the legislation of the Republic of Kazakhstan on valuation activity.

7. In the event of drawing up the report on inventory of the retained property the taxpayer (tax agent) must provide the tax authority officials with the originals or notarial certified copies of the documents confirming the right of ownership and/or economic jurisdiction of such property, and the balance-sheet for examination.

The copies of the documents specified in this paragraph shall be attached to the certificate of inventory of the property retained.

If the taxpayer (tax agent) does not provide the documents specified in this paragraph, the tax authority which has made the decision specified in paragraph 3 of this article shall send to the authorized governmental agencies a request for confirmation of the information as to whether such taxpayer (tax agent) has property on the basis of the right of ownership or economic jurisdiction as specified in paragraph 5 of this article. Copies of the answers from the authorized governmental agencies to the request specified in this paragraph shall be attached to the certificate of inventory of the property restricted in terms of disposal.

The certificate of the inventory of the property under restrictions shall be executed in two copies and signed by a person, who has drawn it up, as well as the taxpayer (tax agent) and/or its official. In that case one copy of such certificate shall be delivered to the taxpayer (tax agent) in accordance with the procedure established by paragraph 4 of this article.

8. The taxpayer (tax agent) must ensure integrity and proper maintenance of the property with restrictions imposed on disposal before removal of the restriction in accordance with the legislation of the Republic of Kazakhstan. In that case the taxpayer (tax agent) shall be liable for unlawful actions with respect to the specified property in accordance with the laws of the Republic of Kazakhstan.

If the tax payer (tax agent) fails to comply with these requirements the taxpayer (tax agent) must reimburse the auction organizer for the actually incurred expenses in connection with preparation of the property with restrictions in disposal for the auction.

9. If the tax liability is not repaid and the property with restrictions on disposal is not sold after holding two auctions the tax authority shall be entitled to restrain other property of the taxpayer (tax agent) by drawing up a new property inventory certificate subject to the available data on the personal account of the taxpayer (tax resident) about the tax liability amount as on the date of drawing up the new certificate of the inventory of the property.

10. The tax authority shall revoke the decision of restraint of the property and the property inventory certificate made on the basis of the decision in the form established by the competent authority, as follows:

1) within one working day from the day of repayment of such debt if the taxpayer (tax agent) repays the tax liability amounts;

2) If the tax service body considering the complaint of the taxpayer (tax agent) makes a decision or a court order becomes effective, revoking in the part of appealing against the notice of the tax inspection results and/or decision of the superior tax service body issued on the results of consideration of the appeal against the notice - within one working day from the day when such decision is made or such court order becomes effective;

3) Revocation by the taxpayer (tax agent) of its/his appeal against the notice of the tax inspection results and/or decision of a superior tax service body made on the results of consideration of the appeal against the notice - within one working day from the day of revocation of such appeal.

11. In the events provided for by paragraph 5 of this article, within five working days from the date of the decision of revocation of the decision to restrain the disposal of the property and certificate of property inventory the tax authority shall send a copy of such decision of revocation to the authorized governmental authorities for exemption of encumbrances on the title to the property.

**Footnote. Article 613 is in wording of the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

## **Chapter 86. THE METHODS OF ENFORCED COLLECTION OF THE TAX ARREARS**

### **Article 614. The methods of enforced collection of the tax arrears**

1. The tax authorities shall take steps for enforced collection of arrears of taxpayers who are legal entities, structural units of legal entities, nonresident carrying on business in the Republic of Kazakhstan through a permanent establishment, individual entrepreneurs, private notaries, private enforcement agents, advocate, except for cases of appealing the notice on the results of a tax audit and (or) decision of the superior tax service authority passed upon the results of processing the complaint against the notice. Prior to the beginning of application of measures for enforced collection, a notice shall be forwarded to the taxpayer (tax agent) for repayment of tax arrears in accordance with Chapter 84 of this Code.

When collecting tax arrears of the taxpayer carrying out activity under the products sharing agreement as a member of a simple partnership (consortium) in cases when fulfillment of tax obligations is imposed on the operator in accordance with sub-paragraph 2) of paragraph 3 of Article 308-1 of the Code measures for tax enforcement that are provided for in this Article shall be applicable in respect to the taxpayer and (or) operator. The final amount of collection shall not exceed the amount specified in the notification on redemption of tax arrears.

2. Enforced collection actions shall not be applied in following cases:

1) Taxpayer (tax agent) has tax payable in the amount of less than 6-fold monthly calculation index, established by the Law On Republican Budget and effective as of January 1 of respective financial year from the day of such debt formation;

2) Taxpayer's bankruptcy declaration by court from the moment of initiating proceedings on bankruptcy case;

3) Introduction of rehabilitation procedure in relation to taxpayer from the day of enactment of court determination on application of rehabilitation procedure.

In this case, with respect to such taxpayers in the event of a tax debt, the amount of which is not included in the register of creditors in accordance with the Law of the Republic of Kazakhstan on bankruptcy, and in the case provided by the Law of the Republic of Kazakhstan on bankruptcy apply enforcement measures such debt;

4) Enforced liquidation of:

Banks, savings pension funds - from the date of initiation by court of case of forced liquidation;

Insurance (re-insurance) organizations - from the date of enactment of court decision on forced liquidation.

3. Enforced collection of tax arrears shall be carried out in accordance with the following procedure:

- 1) At the expense of funds which are in bank accounts;
- 2) From accounts of debtors;
- 3) At the expense of property in restraint;
- 4) In the form of enforced issue of announced shares.

4. In the case of non-payment by a taxpayer (tax agent) of amounts of fines, measures of enforced collection shall be applied as specified in this Article, without a notice, on the basis of a court resolution for enforced collection of amounts of fines.

5. If structural subdivision of legal entity has no banking accounts or structural subdivision of legal entity has no funds (or they are insufficient) on its banking accounts and in cash for the repayment of taxes payable, tax authority levies amount of taxes payable through application of enforced collection actions to taxpayer - legal entity that created this structural subdivision.

If tax debt of legal entity's structural subdivision is not repaid after application to it of enforced collection actions under procedure, specified in the first part of this paragraph, if legal entity has more than one structural subdivision, tax authority shall apply enforced collection action, specified in sub-paragraph 1) of paragraph 3 of this article, simultaneously to all structural subdivisions of such legal entity.

6. For the purposes of this Chapter, accounts of state institutions which are opened in the authorized state body for the implementation of the budget, shall be equated to bank accounts, and the authorized state body for the implementation of the budget shall be equated to the organization carrying out separate bank transactions.

**Footnote. Article 614 is amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010) of 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010), from 30.06.2010 No. 297 -IV (order of entry into force See Article 2) of 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012) of 17.02.2012 No. 564-IV (shall be enforced after ten calendar days after its first official publication).**

## **Article 615. Collection of tax arrears at the expense of funds which are in bank accounts**

1. In the case of non-payment or partial payment of amounts of tax arrears within twenty working days from the date of delivery (receipt) of the notice for repayment of tax arrears, the tax authority shall collect amounts of tax arrears through the enforced procedure from the bank accounts of the taxpayer (tax agent) specified in paragraph 1 of Article 614 of this Code.

Provisions of this paragraph shall not apply to bank accounts to which in accordance with the Republic of Kazakhstan legislative acts on banks and banking, insurance, enforcement proceeding, pension support, project financing and securitization, investment funds, application of claims is not allowed.

2. Collection of tax arrears from the bank accounts of a taxpayer (tax agent) is made on the basis of the order of the tax authority, except for amounts of funds which are security of loans issued by the bank or organization carrying out certain banking transactions in an amount of un-repaid principal of said loan.

Collection orders shall be formulated by the tax authority on the basis of information concerning tax arrears which is available from the official account of the taxpayer (tax agent), as of the date of its compilation.

3. When a bank or organization carrying out separate banking transactions implements a collection order of the tax authority for collection of tax arrears from one bank account of a taxpayer (tax agent), collection orders issued by the tax authority against other bank accounts of the taxpayer (tax agent), opened by the taxpayer (tax agent) in said bank or organization carrying out separate banking transactions, shall be returned by the bank or organization carrying out separate banking transactions, to the tax authority without implementation, provided such collection orders are issued by the tax authority on the same date, in the same amount in respect of the same arrears.

4. In case of full implementation by the bank or organization carrying out separate banking transactions of collection orders of the tax authority for collection of tax arrears by way of writing off funds from several accounts of the taxpayer (tax agent) to a total specified in the collection order, the collection orders issued by the tax authority against other bank accounts of the taxpayer (tax agent), opened by such taxpayer (tax agent) in said bank or organization carrying out separate banking transactions, provided such collection orders are issued by the tax authority as of the same date, same amount for the same arrears, shall be returned by the bank or organization carrying out separate banking transactions, to the tax authority without implementation.

5. Collection orders shall be issued in accordance with the form established by the regulatory legal acts of the Republic of Kazakhstan, and they shall contain reference to



that bank account of the taxpayer (tax agent) from which the collection of tax arrears is carried out.

The tax authority shall send a collection order to the banks or organizations engaged in certain banking operations, in hard copy or electronic form by transferring by means of information and communication network. If the collection order is sent in electronic form it shall be generated in accordance with the forms established by the competent authority in coordination with the National Bank of the Republic of Kazakhstan.

6. In the case of absence of funds in a bank account of the taxpayer (tax agent) in tenge collection of tax arrears shall be carried out from the bank accounts of the taxpayer (tax agent) in foreign currency on the basis of the collection orders issued by the tax authority in tenge.

7. Where funds of a client in a bank or organization carrying out separate banking transactions are sufficient for satisfying all claims applied to such client, the collection order for the collection of amounts of tax arrears, shall be implemented by the bank or organization carrying out separate banking transactions in a priority procedure and no later than one operational day following a day of receipt of such ordinance, within amounts available in the bank account.

8. In case of absence or shortage of funds in bank accounts of the taxpayer (tax agent), in case several claims are applied to the client, the bank or organization carrying out separate banking transactions shall carry out the withdrawal of client's funds towards repayment of tax arrears as funds are received into such accounts and in accordance with the priority queues as established by the Civil Code of the Republic of Kazakhstan.

9. In the case of absence of funds in the bank account of a taxpayer (tax agent) against which the tax authority issued a collection order for collection of tax arrears, the bank or organization carrying out separate banking transactions which accepted such collection order for implementation, when closing the bank account of the taxpayer (tax agent) in accordance with the Republic of Kazakhstan legislation, shall return such collection order to that tax authority together with the notice for closure of the taxpayer (tax agent's) bank account.

**Footnote. Article 615 is amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010) of 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012), from 12.01.2012 No. 539 -IV (shall be enforced after ten calendar days after its first official publication).**

#### **Article 616. Collection from accounts of the taxpayer (tax agent's) debtors**

1. In case of absence or shortage of funds in the account of the taxpayer (tax agent) specified in paragraph 1 of Article 614 of this Code, or a taxpayer (tax agent) has no

bank account, the tax authority within the total tax arrears that formed, shall apply the claim to funds in bank accounts of third parties that have amounts payable to the taxpayer (tax agent) (hereinafter - debtors).

2. The taxpayer (tax agent) no later than ten working days from the date of receipt of the notice for repayment of tax arrears, shall be obliged to submit to the tax authority that forwarded such notice, a list of debtors by specifying amounts receivable and, where available, statements of reconciliation of mutual settlements compiled together with the debtors and confirming amounts receivable.

Where statements of reconciliation of mutual settlements are available, the tax authority shall issue collection orders for the collection of amounts of tax arrears of the taxpayer (tax agent), against the bank accounts of the debtors upon expiry of five working days from the date of receipt by the debtors of the notices in accordance with Chapter 84 of this Code.

If a list of debtors is not presented in time specified in this paragraph, the tax authority shall carry out a tax audit of the taxpayer (tax agent). In that case, the tax authority does not have the right to confirm amounts receivable which are in dispute in a court of law.

3. On the basis of a presented list of debtors or tax audit report confirming amounts receivable, the tax authority shall forward to the debtors notices for application of claims on funds in their bank accounts towards repayment of tax arrears of the taxpayer (tax agent), within amounts payable.

No later than twenty working days from the date of receipt of a notice, except for the case specified in this Article, debtors shall submit to the tax authority that forwarded the notice, the settlements reconciliation statement compiled together with the taxpayer (tax agent) as of the date of receiving the notice.

4. In case of failure of debtors to present a statement of mutual settlement reconciliation within the time specified in this paragraph, the tax authority shall carry out a tax audit of said debtors. In that case the tax authority shall not have the right to confirm amounts of receivable which are disputed in the court.

5. If a taxpayer (tax agent) discharges the tax arrears, a list of debtors or settlement reconciliation statement is not presented.

6. A settlement reconciliation statement between the taxpayer (tax agent) and the debtor must contain the following details:

1) Business name of the taxpayer (tax agent) and the debtor, their identification number;

2) Name of the tax authority where the taxpayer (tax agent) and the debtor are registered in the place of location;

3) Bank account details of the taxpayer (tax agent) and the debtor;

4) Amount of arrears of the debtor to the taxpayer (tax agent);

5) Legal details, seal and signatures of the taxpayer (tax agent) and the debtor;  
6) Date of compilation of the reconciliation statement, which must not be earlier than the date of receipt of the notice on repayment of tax arrears.

7. On the basis of reconciliation report on mutual settlements or report of tax review of debtor, confirming amount of accounts receivable, tax authority shall issue collection orders for banking accounts of debtor on recovery of amounts of taxpayer's (tax agent's) taxes payable.

If accounts receivable specified in reconciliation report on mutual settlements between debtor and taxpayer (tax agent) are discharged, collection orders for the recovery of taxpayer's (tax agent's) taxes payable, issued for banking accounts of debtor, shall be recalled within one working day from the day of submission by debtor or taxpayer (tax agent) of reconciliation report on mutual settlements to the tax authority, attaching documents confirming repayment of such payables.

8. The bank or organization carrying out separates of banking transactions of the debtor-taxpayer shall implement the collection order issued by the tax authority for the collection of amounts of arrears of the taxpayer (tax agent) in accordance with the requirements established by Article 615 of this Code.

**Footnote. Article 616 is amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 617. Collection at the expense of selling taxpayer's (tax agent) property in restraint against tax arrears**

In case of a taxpayer (tax agent) specified in paragraph 1 of Article 614, the tax authority, in case of absence or shortage funds in bank accounts and in bank accounts of the taxpayer (tax agent's) debtors, or in the case of the taxpayer (tax agent) and (or) his debtors have no bank accounts, shall pass a resolution on application of a claim on the restrained assets of the taxpayer (tax agent).

A resolution on application of a claim on restrained property of the taxpayer (tax agent) shall be passed in two copies in accordance with the form established by the authorized body, one of which with the attached copy decision on property restraint and the inventory report shall be forwarded to the authorized legal entity.

**Footnote. Article 617 is amended by the Law of the Republic of Kazakhstan dated 26.11.2010 No. 356-IV (shall be enforced from 01.01.2011).**

#### **Article 618. The procedure for selling taxpayer's (tax agent) property in restraint against tax arrears**

Selling restrained property of a taxpayer (tax agent) against the tax arrears shall be carried out by the authorized legal entity.

The procedure for the sale of restrained property of a taxpayer (tax agent) against tax arrears shall be established by the Government of the Republic of Kazakhstan.

**Footnote. Article 618 is in wording of Law of the Republic of Kazakhstan dated 26.11.2010 No. 356-IV (shall be enforced from 01.01.2011).**

**Article 619. Enforced issue of announced shares of the taxpayer (tax agent) which is a joint-stock company with the participation of the state in the authorized capital**

In the event of failure to repay amounts of tax arrears by the taxpayer (tax agent) which is a joint-stock company with the participation of the state in the authorized capital, after the adoption of all measures specified in sub-paragraphs 1)-3) of paragraph 3 of Article 614 of this Code, the authorized body files a lawsuit with the court claiming for enforced issuing announced shares in accordance with the procedure established by the legislation of the Republic of Kazakhstan.

Counting of periods for the implementation of tax obligations relating to payment of taxes, other obligatory payments to the budget, as well as obligations relating to penalties, fines for the repayment of which pursuant to court decisions an enforced issue of announced shares is carried out, shall be suspended from the date of entry into force of the court decision for enforced issue of announced shares and until the completion of their allocation.

**Article 620. The recognition of a taxpayer (tax agent) as bankrupt**

1. If the taxpayer (tax agent) fails to repay amounts of tax arrears after taking all remedies specified in Article 614 of this Code, the tax authority have the right to take steps for the recognition of the taxpayer (tax agent) as bankrupt in accordance with the legislation of the Republic of Kazakhstan.

2. The procedure for liquidation of a taxpayer (tax agent) recognized as bankrupt, shall be carried out in accordance with the legislation of the Republic of Kazakhstan on bankruptcy.

**Article 621. Publication of lists of taxpayers (tax agents) who have tax arrears in mass media**

1. The tax service authorities shall publish in mass media lists of taxpayers (tax agents) who have tax arrears unpaid within six months from the date of its emergence as follows:

Individual entrepreneurs, private notaries, private enforcement agents and advocates - over 10-fold amount of monthly calculation index, established by the Law on the Republican Budget and effective from January 1 of respective financial year;

Legal entities, their structural subdivisions - over 150-fold amount of monthly calculation index, established by the Law on the Republican Budget and effective from January 1 of respective financial year.

In that respect, the lists shall provide surname, name, patronymic (where available) or business names of the taxpayers (tax agents), of economic activity, identification number, surname, name, patronymic (where available) of the manager of the taxpayer (tax agent) and total amounts of tax arrears.

2. Lists of taxpayers (tax agents) posted on the internet-resource of the authorized body shall be updated quarterly no later than the 20th day of the month following an expired quarter, by way of inclusion of taxpayers (tax agents) meeting the criteria specified in this Article, and also by exclusion of taxpayers (tax agents) who repaid tax arrears and whose tax obligations were terminated.

**Footnote. Article 621 is amended by the Law of the Republic of Kazakhstan dated 10.07.2009 N 178-IV; dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010); dated 02.04.2010 No. 262-IV (shall be enforced from 21.10. 2010).**

**Article 622. Collection of tax arrears of taxpayer - individual who is not a private entrepreneur, private notary, private officer of justice, advocate.**

**Footnote. Title is amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).**

1. If a taxpayer- individual fails to pay fully or partially amounts of tax arrears who is not an individual entrepreneur, private notary, private officer of justice, advocate the tax authority shall petition to the court with an application to pass a court order or claims to exact amounts of tax arrears at the expense of assets of that taxpayer.

2. Court hearings of passing a court order or of lawsuits for collection of amounts of tax arrears of a taxpayer- individual who is not an individual entrepreneur, private notary, private officer of justice, advocate shall be carried out in accordance with the civil procedural legislation of the Republic of Kazakhstan.

3. Collection of tax arrears at the expense of the assets of a taxpayer- individual who is, not individual entrepreneur, private notary, private officer of justice, advocate shall be carried out by the enforcement authorities in accordance with the procedure established by the legislation of the Republic of Kazakhstan on enforcement procedures.

**Footnote. Article 622 is amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).**

## **Chapter 87. MONITORING OF MAJOR TAXPAYERS**

**Article 623. General provisions**

1. Monitoring of major taxpayers (hereinafter for the purposes of this Chapter - monitoring) shall be carried out by way of analyzing financial and operational activities of major taxpayers for the purpose of determining their real tax base, supervision of compliance with the tax legislation of the Republic of Kazakhstan and applicable market prices for the purposes of exercising supervision of transfer pricing.

2. Major taxpayers, which have aggregate annual income without adjustment provided by Article 99 of this Code with simultaneous compliance with the following conditions shall be subject to monitoring, unless otherwise is established by this paragraph:

1) amount of book values of all assets is equal at least to multiple of 325 000-fold of monthly calculation index established by the Law On State Budget and effective as of the end of the year, wherein the list of major taxpayers, who are subject to monitoring, shall be approved;

2) Number of employees is at least 250 persons.

Attorney (operator) and (or) subsoil user(s) specified in the product sharing agreement (contract) entered between the Government of the Republic of Kazakhstan or competent body and subsoil user prior January 1, 2009, underwent compulsory tax assessment, who have maximum aggregate annual income without adjustment provided by Article 99 of this Code, shall be subject to monitoring of major taxpayers and included in the list of major taxpayers notwithstanding the compliance of conditions established by sub-paragraphs 1) and 2) of the first part of the paragraph.

For the purposes of this Article:

1) Aggregate annual income without adjustment provided by Article 99 of this Code shall be determined based on the data contained in the corporate income tax report for the tax period preceding the year, wherein the list of major taxpayers, who are subject to monitoring shall be approved;

2) Book value of assets shall be determined based on the data of annual financial statements for the year preceding the year, wherein the list of major taxpayers subject to monitoring shall be approved;

3) Number of employees shall be determined based on the data of personal income tax and social tax reports for the last month of the first quarter of the year, wherein the list of major taxpayers subject to monitoring shall be approved.

First three hundred major taxpayers with the maximum aggregate annual income without adjustment provided by Article 99 of this Code out of major taxpayers meeting the conditions set by this paragraph shall be included in the list of major taxpayers subject to monitoring.

3. The list of major taxpayers who are subject to monitoring shall be approved by the Government of the Republic of Kazakhstan no later than the 15th December of the year preceding a year of entry into force of this list.

If as of the 1st November of the year preceding a year of entry into force of the list of major taxpayers - subject to monitoring- a taxpayer who meets the requirements established by paragraph 2 of this Article is at the stage of liquidation, such taxpayer shall not be subject to inclusion into that list.

The approved list of major taxpayers-subject to monitoring- shall be shall be enforced not earlier than the 1st January of the year following the year of its approval.

The approved list of major taxpayers- subject to monitoring- shall be effective for two years from the date of its entry into force and shall not be subject to alteration within such period.

4. In case of reorganization of a major taxpayer - subject to monitoring- its legal successor (successors) shall be subject to monitoring until the subsequent list of major taxpayers is entered into force.

5. In case of liquidation of a major taxpayer - subject to monitoring- and also starting from the date of entry into force of a court decision on its recognition as bankrupt, such taxpayer shall be recognized excluded from the list of major taxpayers who are subject to monitoring.

**Footnote. Article 623 is amended by the Law of Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2011).**

#### **Article 624. The procedure and deadlines for submission of reports for monitoring**

1. Major taxpayers - subject to monitoring- shall submit reports concerning monitoring in the form of an electronic document certified with the electronic digital signature.

2. Unless otherwise specified by this Article, reporting under the monitoring shall be as follows:

**Note of the RCLI!**

**Operation of sub-paragraph 1) is suspended until 01.01.2016 (see Article 19.1 of the Law of the Republic of Kazakhstan 10.12.2008 No. 100-IV).**

1) Book of sales of goods, work, and services;

**Note of the RCLI!**

**Operation of paragraph 2) is suspended until 01.01.2016 (see Article 19.1 of the Law of the Republic of Kazakhstan 10.12.2008 No. 100-IV).**

2) Book of purchases of goods, work, and services;

3) Balance sheet;

4) Report of movement of products and purchased goods, work performed, services rendered;

5) Cost of goods produced, performed work, rendered services;

6) Report on results of financial and operational activities;

7) Disclosure of amounts receivable and amounts payable./



3. Reports under the monitoring of major taxpayers who are subject to monitoring and who carry on banking business and also separates of banking transactions on the basis of licenses or in accordance with the legislative acts of the Republic of Kazakhstan, are as follows:

**Note of the RCL!**

Operation of sub-paragraph 1) is suspended until 01/01/2016 (see Article 19.1 of the Law of the Republic of Kazakhstan 10.12.2008 No. 100-IV).

1) Book of sales of goods, work, services;

**Note of the RCL!**

Operation of sub-paragraph 2) is suspended until 01.01.2016 (see Article 19.1 of the Law of the Republic of Kazakhstan 10.12.2008 No. 100-IV).

2) Book of purchases of goods, work, and services;

3) balance sheet;

4) Income and costs report;

5) Disclosure of amounts receivable and amounts payable.

4. Reports of insurance and reinsurance companies which are major taxpayers-subject of monitoring-are as follows:

1) Report on insurance activities;

2) Balance sheet;

3) Income and costs report.

5. Reports of major taxpayers - subject to monitoring- who carry on business of soliciting pension contributions and pension payments, and also business of investment management of pension assets in accordance with the procedure established by the legislation of the Republic of Kazakhstan, are as follows:

1) Report on pension assets;

2) Report on management of pension assets;

3) Balance sheet;

4) Income and costs report.

6. Major taxpayers - subject to monitoring -shall submit reports as specified in paragraphs 2-5 of this Article, quarterly no later than the 15th day of the second month following a reporting period, in accordance with the procedure and forms which are approved by the authorized body.

If the last day of a period for the submission of reporting forms for the monitoring is a day-off, the next following working day shall be the reporting day.

**Footnote. Article 624 as amended by the Law of the Republic of Kazakhstan dated 05.07.2012 No. 30-V (shall be enforced upon the expiry of ten days after its first official publication).**

## **Chapter 88. RISK MANAGEMENT SYSTEM**



## **Article 625. General provisions**

1. The risk management system is based upon risk assessment and includes measures which are elaborated and (or) applied by the tax service authorities for the purposes of identifying and preventing risks. On the basis of the risk assessment results, the differentiated application of tax supervision forms is applied.

2. Risk is probability of non-implementation and (or) partial implementation of tax obligations by the taxpayer (tax agent) which can and (or) could cause losses to the state.

3. The objectives of application by the tax service authorities of a risk management system are following:

1) Concentration of attention on areas of high risk and providing more efficient use of resources available;

2) Increasing the potential for finding violations in the sphere of taxation.

4. The risk management system is used in the exercise of the tax supervision, in particular for selection of taxpayers (tax agents) for the following reasons:

1) Conducting tax audits;

1-1) confirmation of tax excess amount on value-added tax to be refunded;

2) Establishing rights to simple procedure for refund of amounts of excess value-added tax, subject to provisions of Article 274 of this Code.

5. *Excluded by the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (shall be enforced See Article 2).*

6. The risk management system may be used by using risk management information systems.

**Footnote. Article 625 as amended by the Law of Republic of Kazakhstan dated 17.07.2009 N 188-IV (the order of enforcement see Article 2); dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2).**

## **Article 626. Steps of the tax service authorities for risk assessment and management**

The tax service authorities shall analyze data of tax reports submitted by the taxpayer (tax agent), information received from the authorized state authorities as well as other documents and (or) data concerning activities of the taxpayer (tax agent).

Results of such analysis are used by the tax service authorities for the objectives specified in Article 625 of this Code.

## **Chapter 89. TAX AUDITS**

### **§ 1. Definition,s and forms of tax audits**

**Note of the RCLI!**

Article 627 as amended by the law of the Republic of Kazakhstan dated 21.06.2012 No. 19-V (shall be enforced from 01.01.2013); dated 10.07.2012 No. 36-V (shall be enforced from 01.01.2013).

#### **Article 627. Definition,s and forms of tax audits**

1. A tax audit - verification as carried out by the tax service authorities of the following:

1) Compliance with the rules of the tax legislation of the Republic of Kazakhstan as well as other legislation of the Republic of Kazakhstan, of which the supervision of compliance is entrusted to the tax service authorities, as carried out by the tax service authorities;

2) Persons who have documents, information, relating to the activity of the taxpayer (tax agent) under inspection, including the authorized representative of members of a simple partnership (consortium) who is responsible for keeping consolidated tax accounting on such activity for acquisition of information on the taxpayer (tax agent) under inspection regarding the issues related to entrepreneurial activity of the taxpayer (tax agent) under inspection;

3) In order to obtain additional information from a taxpayer (tax agent) who filed a complaint against a notice on the results of a tax audit and (or) a decision of the superior tax service authority, passed upon the results of processing a complaint on a notice.

2. Where appropriate the tax service authorities in the course of a tax audit may carry out the following:

Inspection of assets which are subject to tax and (of) objects relating to taxation, regardless of the place of its location;

Taking inventories of the taxpayer (tax agent) (except for housing).

participants of tax audits are as follows:

Officials of the tax services authorities and other persons solicited by the tax service authorities to conduct audits in accordance with this Code;

In case of specilized audits on the following issues:

Registration with the tax authorities;

Availability of cash registers;

Availability and authenticity of excise duty and accounting registration stamps, availability of a license, permission to supply ethyl alcohol, patent, registration card, specified in Article 574 of this Code, - a taxpayer who carries on business in an area within the territory specified in the injunction;

In cases of others of tax audits the taxpayer specified in the injunction.

In order to examine issues which require special knowledge and skills and receiving consultation, the tax service authority may invite an expert who is not biased towards the outcome of an audit, for the participation in a tax audit.

With regard to questions which are set by the official person of a tax service authority, who is a participant of a tax audit, an expert invited to participate in a tax audit, shall compile a report which is used in the course of an audit. Copies of such written questionnaires and reports shall be attached to reports on tax audits, in particular to a copy of the tax audit report which is to be presented to the taxpayer.

In case of the tax service authority inviting an expert to participate in a tax audit, the taxpayer has the right to invite an expert on his behalf, whose report shall be attached to a tax audit report, provided the taxpayer's expert's report is presented to the tax service authorities no later than signing the tax audit report.

3. Tax audits shall be carried out exclusively by the tax service authorities.

4. Tax audits shall be subdivided into the followings:

1) Documentary audits;

2) *Excluded by the Law of 17.07.2009 No. 188-IV (the order of enforcement See Article 2)*

3) Chronometrical inspection.

5. Documentary audits are subdivided into the following forms:

1) Integrated audits - audits as carried out by the tax service authority with regard to a taxpayer (tax agent) in respect of issues of implementing tax obligations relating to alls of taxes and other obligatory payments to the budget, fullness and timeliness of assessment and transfer of obligatory pension contributions, fullness and timeliness of assessment and payment of social assessments.

Issues of specialized audits may be included into an integrated audit.

A documentary audit of which the performance is prescribed by Articles 37, 40 - 42 of this Code, shall be recognized as a liquidation audit and as an integrated audit;

2) Specialized audits - audits as carried out by the tax service authority with regard to a taxpayer (tax agent) in respect of issues of:

Implementation of tax obligations with regard to certain of taxes and (or) other obligatory payments to the budget;

Fulfillment of tax obligation on value-added tax and (or) excise duty on goods imported to the territory of the Republic of Kazakhstan from the territory of states members of the Custom Union;

Fullness and timeliness of assessment, withholding and transfer of obligatory pension contributions, as well as fullness and timeliness of assessment and payment of social assessments;

Implementation by the banks and organizations carrying out certain of banking transactions, of the duties established by this Code and also the Law of the Republic of

Kazakhstan On Obligatory Social Insurance and On Pension Support in the Republic of Kazakhstan ";

Transfer pricing;

State regulation of production and handling of excisable goods;

Determining tax obligations in relation to transactions with a taxpayer recognized as false business on the basis of a sentence which entered into legal force or a court decree;

Determining mutual settlements between the taxpayer (tax agent) and the taxpayer (tax agent's) debtors;

Lawfulness of application of provisions of international treaties (agreements);  
Confirmation of adequacy of amounts of value-added tax claimed for refund;

Refund from the budget or from the conditional bank deposit of paid income tax, on the basis of a tax application of a nonresident and an international treaty for the avoidance of double taxation;

Failure of a taxpayer (tax agent) to implement a notice of the tax authorities for the elimination of violations found upon the results of the in-house supervision, in accordance with the procedure established by Article 608 of this Code;

Processing of a complaint of the taxpayer (tax agent) against a notice on the results of a tax audit and (or) a decision of the superior tax service authority, passed upon results of processing a complaint on a notice, conducted with regard to issues, stated in the complaint of the taxpayer (tax agent);

Processing of an application of a nonresident concerning reprocessing of the tax application for refund from the budget of paid income tax or from the conditional bank deposit on the basis of provisions of international treaty for the avoidance of double taxation;

Registration with the tax authorities;

Availability of cash registers;

Availability and authenticity of excise duty and accounting registration stamps, availability of a license, permission to supply ethyl alcohol, patent, registration card, specified in Article 574 of this Code;

Compliance with the procedure for the use of cash registers;

Compliance with legislation of the Republic of Kazakhstan on licensing and conditions of production, storage and marketing of excisable goods;

Implementation of an ordinance passed by the tax authority for the suspension of cash expenditure transactions.

In order to participate in conducting specialized audits in respect of issues of:

Registration with the tax authorities;

Availability of cash registers;

Availability and authenticity of excise duty and accounting registration stamps, availability of a license, permission to supply ethyl alcohol, patent, registration card, specified in Article 574 of this Code, representatives of associations of private entrepreneurship subjects may be invited in coordination with such associations.

Representatives of associations of private entrepreneurship subjects shall exercise the supervision of compliance with the taxpayer's rights when conducting said specialized audits. Facts of participation of the associations of private entrepreneurship subjects shall be fixed in the report on a specialized audit.

In that respect, a specialized audit may simultaneously encompass several issues of those specified in this sub-paragraph. A specialized audit may not intend auditing of implementation of tax obligations with regard to all of taxes and other obligatory payments to the budget;

3) Cross audit is audit carried out by the tax service authority in relation to persons who carry out transactions with a taxpayer (tax agent) in relation to which the tax service authority carries out an integrated or specialized audit persons for the purpose of obtaining additional information on such transactions for use in the course of auditing of said taxpayer.

A cross audit shall be recognized as accessory audit as compared to integrated or specialized audits.

Cross audit shall also be recognized an audit performed:

at the requests of the Tax Authorities or Law-enforcement Authorities of other states, international organizations in accordance with the international contracts (agreements) on mutual co-operation between the Tax and Law enforcement Authorities, to which the Republic of Kazakhstan shall be a party, as well as with the agreements concluded by the Republic of Kazakhstan with the international organizations;

In respect to persons carrying out operations with the taxpayer (tax agent) which did not settle the violations of value-added tax obligation that were revealed upon the results of the cameral audit and related to such operations, or submitted explanations that do not confirm absence of such violations;

4) *Excluded by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement see Article 2).*

6. *Excluded by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement see Article 2).*

7. Chronometric inspection - inspection as carried out by tax authorities for the purpose of establishing actual income of a taxpayer and actual costs related to activities aimed at earning income, of the period when the inspection is taking place.

8. Performance of tax audits must not suspend activities of the taxpayer (tax agent), except for the cases established by the legislative acts of the Republic of Kazakhstan.

9. Tax audits shall be subdivided into the followings:

1) Scheduled - integrated and specialized audits which are carried out in accordance with the schedule of tax audits, which is approved annually by the authorized body. The schedule of tax audits shall be compiled on the basis an analysis of tax reports presented by the taxpayer (tax agent), information of state authorities, and also other documents and information concerning activities of the taxpayer (tax agent);

2) Non-scheduled - tax audits, not specified in sub-paragraph 1) of this paragraph, including those carried out:

Pursuant to application of the taxpayer (tax agent);

On the grounds specified in the criminal procedural legislation of the Republic of Kazakhstan;

Presentation by the taxpayer (tax agent) of additional tax reports for a previously audited tax period for the purpose of verifying the Authenticity of recorded data in such additional tax reports;

Receiving a response that was not received in the course of a previous tax audit, to requests forwarded previously by the tax service authorities;

Failure of the taxpayer (tax agent) to implement the notice of the tax authorities for the elimination of violations found upon the results of in-house supervision, in accordance with the procedure established by Article 608 of this Code;

Reorganization by way of division or with liquidation of a resident legal entity, structural unit of a nonresident legal entity;

Termination by a nonresident legal entity of business in the Republic of Kazakhstan which is carried out through a permanent establishment;

Termination of business by an individual entrepreneur, private notary, advocate;

Deregistration for value-added tax on the basis of the tax application of the taxpayer;

In connection with the expiry of subsoil use contracts' validity terms;

On issues of the state regulation of production and handling of certain excisable goods;

On issues of determining mutual settlements between the taxpayer (tax agent) and the taxpayer (tax agent's) debtors in accordance

With tax legislation of the Republic of Kazakhstan;

On the basis of the taxpayer's request in the value-added tax declaration to confirm the accuracy of amounts of value-added tax claimed for refund;

On the basis of the tax application of a nonresident for refund from the budget or conditional bank deposit of income tax paid, in accordance with the provisions of the international agreement for the avoidance of double taxation;

On issues of discharge, by banks or other organizations carrying out separate banking transactions, of duties established by Tax Legislation of the Republic of

Kazakhstan, other legislation of the Republic of Kazakhstan, of which the supervision of compliance is entrusted to the tax service authorities;

On issues of determining tax obligations in relation to transactions with a taxpayer recognized as false business on the basis of a sentence that entered into legal force or a court decree;

On issues of determining tax obligations in relation to transaction (transactions), of which the commission is recognized by the court as performed without an intent to carry out business activities;

In connection with the complaint of the taxpayer (tax agent) against a notice on the results of a tax audit and (or) decision of the superior tax service authority passed upon the results of considering a complaint against a notice, - on issues outlined in such complaint;

In connection with the petition of a nonresident for a repeat consideration of the tax application for refund from the budget or conditional bank deposit of income tax paid, in accordance with the provisions of an international agreement for the avoidance of double taxation.

On the issue of elimination of violations for which a licensor suspended validity of a license;

On issues regarding the fulfillment of obligation on value-added tax and (or) of excisable goods imported to the territory of the Republic of Kazakhstan from the territory of states - members of the Custom Union;

On issues regarding the registration with the Tax Service Authorities;

On issues regarding the availability of cash register machines;

On issues regarding the availability and authenticity of excised duty and accounting registration stamps, availability of a license,

Permission to supply ethyl alcohol, patent, registration card specified in Article 574 of this Code;

On issues regarding the compliance to the procedure for application of cash register machines;

On issues regarding the compliance to the rules for licensing and rules for production, storage and sales of certain excisable goods;

On issues regarding the implementation of an order of the Tax Authority on suspension of cash expenditure operations;

On the grounds of the decision of the state authority carrying out guidance in the sphere of ensuring collection of taxes and other obligatory payments to the budget.

Non-scheduled audits, specified in sub-paragraph 2) of this paragraph, may be carried out in relation to a previously audited period.

Therewith non-scheduled audits for the previously audited period, except for tax inspections performed upon the application of the taxpayer (tax agent) itself or on the

grounds that are provided for by the criminal procedure legislation of the Republic of Kazakhstan in connection with the complaint of the taxpayer (tax agent) against a notice on the results of a tax audit and (or) decision of the superior tax service authority passed upon the results of considering a complaint against a notice shall be exercised on the basis of the decision of the governmental agency performing administration in the sphere of enforcement of tax and other obligatory payments to the budget.

10. The tax service authorities have the right to audit structural units of legal entities, irrespective of conducting tax audits of the legal entity itself.

When deregistering a structural unit of a resident legal entity, the liquidation tax audit shall not be carried out, except for the cases of submission by the taxpayer of a tax application for the performance of a tax audit due to liquidation of a structural unit.

11. Periods which are subject to documentary audits, must not exceed the statute of limitations as established in accordance with Article 46 of this Code.

12. In the case of the tax service authorities finding, upon the results of in-house supervision, violations relating to issues of computing tax obligations relating to a taxpayer who is recognized a false enterprise, and (or) on the basis of a transaction (transactions) of which the commission is recognized by the court and performed without an intention to carry out false business, tax audits on such issues for a tax period in which such transaction (transactions) were committed, may not be carried out until a notice for the elimination of violations found by the tax service authorities upon the results of in-house supervision and expiry of the period established by paragraph 2 of Article 608 of this Code.

Information on a taxpayer who is recognized a false enterprise, shall be posted on the web site of the authorized body no later than twenty working days after the first receipt by the tax service authority of a court sentence that entered into legal force, or a court decree.

## **§ 2. Procedure and deadlines for conducting tax audits**

### **Article 628. Periodicity of tax audits**

**Footnote. Article 628 excluded by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement see Article 2).**

### **Article 629. The length of conducting tax audits**

1. Length of conducting tax audits as specified in the injunction must not exceed thirty working days from the date of receipt of the injunction, unless otherwise established by this Article.

2. Time for conducting a tax audit may be extended as follows:



1) For legal entities who have no structural units, individual entrepreneurs and nonresidents carrying on business through a permanent establishment, provided they have not more than one locality in the Republic of Kazakhstan, except for the cases specified in sub-paragraph 2) of this paragraph:

By the tax authority that appointed an audit, up to forty-five working days;

By the superior tax service authority - up to sixty working days;

2) For legal entities that have structural units and nonresidents carrying on business through permanent establishments, if they have more than one locality in the Republic of Kazakhstan, and also for major taxpayers who are subject to monitoring, as follows:

By the tax authority that appointed an audit, up to seventy-five working days;

By the superior tax service authority - up to one hundred and eighty working days.

3. The authorized state body may extend the time of a tax audit appointed by it, to the following taxpayers, as specified:

1) In sub-paragraph 1) of paragraph 2 of this Article, up to sixty working days;

2) In sub-paragraph 2) of paragraph 2 of this Article, up to one hundred and eighty working days.

4. Counting of a period of conducting a tax audit shall be suspended for the time between the date of delivery to the taxpayer (tax agent) of the request of the Tax Service Authority for submission of information and (or) documents and the date of presentation by the taxpayer (tax agent) of information and (or) documents which are requested in the course of the performance of the tax audit, and also between the date of sending a request by the Tax Service Authority to other territorial tax authorities, governmental agencies, banks and organizations carrying out separates of banking transactions, and other organizations, carrying out activity in the territory of the Republic of Kazakhstan, and date of receipt of information and (or) documents on said issue. Counting of a period of a tax audit shall also be suspended for the time between the date of forwarding to foreign states the requests for submission of information and the date of receipt of information by the Tax Service Authorities in accordance with international agreements.

Therewith the Tax Service Authority carrying out tax inspection shall deliver to the taxpayer (tax agent) with written acknowledgement of receipt or forward to it by a registered letter with notice a notification on suspension or resumption of a tax inspection no later than one working day from the date of ceasing or resumption with the notification of the law statistics body.

5. The time of suspension due to reasons specified in paragraph 4 of this Article, shall not be included into the length of a tax audit with regard to the following:

1) major taxpayers who are subject to monitoring;

2) Those conducted in connection with the liquidation of a resident legal entity, termination of activity of a resident legal entity, termination of business by an

individual entrepreneur, activities of a private notary, private officer of justice, advocate;

3) Specialized audits of legal entities on issues of transfer pricing;

4) Specialized audits for confirmation of adequacy of amounts of value-added tax claimed for refund;

4-1) specialized audits of tax agents with respect to refund of the income tax from the budget or conditional bank deposit on the basis of the tax application of the nonresident;

5) Carried out on the grounds provided by the criminal procedure legislation of the Republic of Kazakhstan;

6) In case of a request from the Tax Authority to the taxpayer (tax agent) to file documents (information) during the course of tax inspections in accordance with Article 640 of the Code.

For tax audits not specified in sub-paragraphs 1)-6) of this paragraph, the time of suspension shall be included into the length of the tax audit;

6. The time of conducting a documentary audit, except for a cross audit, unless otherwise specified by this Article, subject to provisions of paragraphs 2-5 of this Article, must not exceed the following:

1) For legal entities that have no structural units, individual entrepreneurs and nonresidents carrying out activity through a permanent establishment, provided they have not more than one locality in the Republic of Kazakhstan, except for the cases specified in sub-paragraph 3) of this paragraph, - sixty working days;

2) For legal entities having structural units and for nonresidents carrying on business through permanent establishments if they have more than one location in the Republic of Kazakhstan, except for cases specified in sub-paragraph 3) of this paragraph one hundred and eighty working days;

3) For major taxpayers who are subject to monitoring, - one hundred and eighty working days.

7. Time for conducting, extending and suspending specialized audits for confirmation of adequacy of amounts of value-added tax claimed for refund, shall be established in compliance with the deadlines specified in paragraph 3 and 4 of Article 273 of this Code.

8. When conducting chronometrical inspections, periods specified in paragraph 1 of this Article may encompass days-off and holidays, provided the audit taxpayer carries on business on such days. Chronometrical inspections may be carried out in accordance with the working hours of the taxpayer, regardless whether day or night.

**Footnote. Article 629 is amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009); dated 02.04.2010 No. 262 -IV (shall be enforced from 21.10.2010), dated 30.06.2010 No. 297 -IV (shall be**

enforced from 01.01.2010); dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).

#### **Article 630. Features of unscheduled documentary checks**

Footnote. Article 630 excluded by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement see Article 2).

#### **Article 631. Notification on tax audit**

1. The tax service authorities, thirty calendar days prior to beginning to conduct a scheduled integrated and (or) scheduled specialized audit shall forward or hand over a notification on conducting a tax audit to the taxpayer (tax agent) in accordance with the form established by the authorized body, unless otherwise established by this Article, except for tax audits which are carried out in connection with the following:

Reorganization by way division or liquidation of a resident legal entity, structural unit of a nonresident legal entity;

Termination by a nonresident legal entity of business in the Republic of Kazakhstan which is carried out through a permanent establishment;

Termination of business by an individual entrepreneur, private notary, private officer of justice, advocate;

Deregistration for value-added tax on the basis of a tax application of the taxpayer.

2. A notification shall be forwarded or delivered to the taxpayer (tax agent) in the place of location as specified in registration details.

A notification forwarded by mail with registered letter, shall be deemed to be delivered from the date of receipt of confirmation by the postal or another communications organization.

3. In case of absence of the taxpayer (tax agent) in the place of location as specified in registration details, the performance of a scheduled integrated and (or) specialized audit shall be carried out without notice.

4. A notice shall specify the of a tax audit, list of issues to be audited, preliminary list of required documents, rights and obligations of the taxpayer (tax agent) in the course of conducting the audit, and also other information which is required for the performance of a tax audit.

5. The tax service authority have the right to begin a tax audit without notifying the taxpayer (tax agent) of beginning an audit in those cases where reasonable risk exists that the taxpayer (tax agent) may conceal or destroy documents relating to taxation which are needed for conducting the audit, or other circumstances exist which make an audit impossible or not allowing to carry it out to a full extent.

The tax authority is carried out a tax audit without notifying the taxpayer on the basis of a written permit from the superior tax service authority.

Footnote. Article 631 is amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).

Note of the RCLII!

Article 632 as amended by the Law of the Republic of Kazakhstan dated 21.06.2012 No. 19-V (shall be enforced from 01.01.2013).

#### **Article 632. Ground for conducting tax audits**

1. The injunction containing the following details, shall be recognized as basis for conducting a tax audit:

- 1) Registration date and number assigned to the injunction by the tax authority;
- 2) Name of the tax authority that passed the injunction;
- 3) Surname, name, patronymic (where available) or full business name of the taxpayer (tax agent);
- 4) Identification number;
- 5) of audit;
- 6) Positions, surnames, names, patronymics (where available) of the auditors and experts invited to conduct the audit, in accordance with this Code;
- 7) Time for conducting the audit;
- 8) Period to be audited (in case of documentary audits).

2. In the injunction for specialized audits the following shall be specified:

1) Auditable territory lot, issues to be settled during the audit, as well as the information that is provided by paragraph 1 of this Article, except for cases specified in sub-paragraphs 3), 4), 7) and 8) of the specified paragraph when prescribing specialized audits on issues of:

Registration with the tax authorities;

Availability of cash register machines;

Availability and authenticity of excised duty and accounting registration stamps, availability of a license, permission to supply ethyl alcohol, patent, registration card specified in Article 574 of this Code;

2) Information provided by paragraph 1 of this Article, except for the case specified in sub-paragraph 8) of the specified paragraph when prescribing specialized audits on issues of:

Compliance with the procedure for application of cash register machines;

Compliance with the rules for licensing and conditions of production, storage and sales of certain excisable goods;

Implementation of the ordinance passes by the Tax Authority for the suspension of cash expenditure transactions;

3) Information provided for by paragraph 1 of this Article when prescribing specialized audits on issues not specified in sub-paragraphs 1), 2) of this paragraph.

3. In case of appointment of specialized, additional, cross audits, the injunction shall specify issues to be audited in relation to the of the audit, as follows:

1) of the tax and other obligatory payments to the budget;

2) Adequacy and timeliness of the assessment and transfer of obligatory pension contributions and also fullness and timeliness of the assessment and payment of social assessments;

3) Performance by banks and organizations carrying out separates of banking transactions, of the duties established by this Code, and also by the legislative acts of the Republic of Kazakhstan on obligatory social insurance and pension support;

4) Transfer pricing;

5) State regulation of production and handling of certain excisable goods;

6) Assessing mutual settlements between the taxpayer (tax agent) and the taxpayer (tax agent's) debtors;

7) Untimely transfer, non-transfer (non-inclusion) by banks and other organizations carrying out separates of banking transactions of amounts of taxes and other obligatory payments to the budget, obligatory pension contributions and social assessments, penalties, fines on the day of committing write-off transactions in bank accounts of taxpayers (tax agents) and acceptance of funds into cash departments of banks or organizations carrying out separates of banking transactions, towards payment of taxes and other obligatory payments, penalties, fines;

8) Determining tax obligations relating to transactions with a taxpayer (tax agent) recognized as false business on the basis of a court sentence or a court decree that entered into legal force;

9) Computing tax liabilities under a transaction (transactions), of which the commission is recognized by the court as performed without an intent to carry out business activities;

10) Lawfulness of applying provisions of international treaties (conventions);

11) Confirmation of adequacy of amounts of value-added tax claimed for refund;

12) Confirmation of mutual settlements between the taxpayer (tax agent) and the taxpayer (tax agent's) contractors and customers;

13) Fulfillment of tax obligation on value-added tax and (or) excise duty on goods imported to the territory of the Republic of Kazakhstan from the territory of the states - members of the Custom Union;

14) Registration with the Tax Authority;

15) Availability of cash register machines;

16) Availability and authenticity of excised duty and accounting registration stamps, availability of a license, permission to supply ethyl alcohol, patent, registration card specified in Article 574 of this Code;

17) Compliance with the procedure for application of cash register machines;

18) Compliance with the rules for licensing and conditions of production, storage and sales of certain excisable goods;

19) Information provided for by paragraph 1 of this Article when prescribing specialized audits on issues not specified in sub-paragraphs 1), 2) of this paragraph.

When conducting integrated audits, those of taxes and other obligatory payments to the budget shall not be specified in the injunction.

4. An injunction must be signed by the chief executive of the tax service authority or person substituting for him, certified with the state seal and registered in the special-purpose journal in accordance with the procedure established by the authorized body, unless otherwise established by this paragraph.

An injunction for conducting cross audits as well as for a chronometric inspection, may be signed by the deputy head of the tax service authority.

5. In case of extending periods of audits specified in Article 629 of this Code, and (or) change in quantity and (or) substitution of persons who carry out an audit, and (or) changes in the period under audit, an additional injunction shall be formulated specifying the registration number and date of the previous injunction, surnames, names and patronymics (where available) of the persons who are invited to participate in conducting an audit in accordance with this Code.

6. Only one tax audit may be carried out on the basis of one injunction, except for specialized audits on issues of:

Registration by the tax authorities;

Availability of cash registers;

Availability and authenticity of excised duty and accounting registration stamps, availability of a license, permission to supply ethyl alcohol, patent, registration card, specified in Article 574 of this Code.

7. *Excluded by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement see Article 2).*

Footnote. Article 632 is amended by the Law of the Republic of Kazakhstan dated 17.07.2009 N 188-IV (the order of enforcement See Article 2) dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2009) dated 30.06.2010 No. 297-IV (the order of enforcement see Article 2).

Note of the RCLI!

Article 633 as amended by the law of the Republic of Kazakhstan dated 21.06.2012 No. 19-V (shall be enforced from 01.01.2013).

### **Article 633. Beginning conducting a tax audit**

1. The date of delivery to the taxpayer (tax agent) of the injunction is deemed to be the beginning of the tax audit or the date of compilation of the denial act of the taxpayer (tax agent) to sign the injunction.

2. The officials of the tax service authority who carry out a tax audit, shall present to the taxpayer (tax agent) their service identification certificates.

3. The official person of the tax service authority, who is conducting a tax audit, except for specialized audits on issues of: registration by the tax authorities; availability of cash registers; availability and authenticity of excised duty and accounting registration stamps, availability of a license, permission to supply ethyl alcohol, patent, registration card, specified in Article 574 of this Code, shall hand over to the taxpayer (tax agent) the original injunction. In the copy of the injunction the signature shall be put by the taxpayer (tax agent) confirming perusal and receipt of the injunction, date and time of receiving the injunction.

4. When carrying out specialized audits on issues of: registration by the tax authorities; availability of cash registers; availability and authenticity of excised duty and accounting registration stamps, availability of a license, permission to supply ethyl alcohol, patent, registration card, specified in Article 574 of this Code, the original injunction for perusal and its copy shall be handed over to the taxpayer or taxpayer's employee who carries out selling of goods and rendering of services. The signature of the taxpayer (tax agent) shall be put in of a copy injunction confirming the perusal and receipt of the injunction, the date and time of receiving the injunction.

5. In case of refusal of the taxpayer (tax agent) to sign the copy injunction, the tax service employee who carries out the audit shall compile a report on refusal to sign by inviting witnesses (not less than two). In that case the following shall be specified in the report on refusal to sign:

- 1) Place and date of compilation;
- 2) Surname, name and patronymic (where available) of the official person of the tax service authority who compiled the report;
- 3) Surname, name and patronymic (where available), number of the personal identification document, residence address of the invited witnesses;
- 4) Number, date of the injunction, business name of the taxpayer (tax agent), the taxpayer (tax agent's) identification number;
- 5) Circumstances of refusal to sign the copy injunction.

6. Refusal of the taxpayer (tax agent) to receive an injunction shall not be recognized as reason for abolition of a tax audit.



7. Refusal of the taxpayer to sign a copy of the tax service authority injunction shall be understood as non-addition of the officials of the tax service authorities to carry out a tax audit.

The provisions of this paragraph shall not apply in the cases mentioned in paragraph 5 of Article 636 of this Code.

8. During the period of performing a tax audit it shall not be allowed to terminate such audit pursuant to an application of the taxpayer.

**Footnote. Article 633 is amended by the Law of the Republic of Kazakhstan dated 17.07.2009 N 188-IV (the order of enforcement See Article 2) dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

#### **Article 634. Specifics in conducting chronometric inspection**

1. The taxpayer and (or) his representative shall be present when conducting a chronometrical inspection.

2. In order to carry out a chronometrical inspection, the tax service authorities shall independently define issues concerning taxable objects and (or) objects relating to taxation under the inspection. In that respect, the following must be subject to examination in accordance with the obligatory procedure:

1) Taxable objects and (or) objects relating to taxation. Where appropriate the tax service authorities have the right to take inventory of the taxpayer's assets;

2) Presence of cash, financial documents, accounting books, reports, budgets, securities, computations, declarations and other documents relating to taxable objects and (or) objects relating to taxation that are inspected;

3) Readout of the fiscal report from the cash register.

3. When conducting a chronometrical inspection, the official person of the tax service authority who carry out the chronometrical inspection, must annually provide for the fullness and accuracy of entry into chronometric observation charts of information obtained in the course of inspection. For each taxable object and (or) objects relating to taxation and also for each, and also for each individual source of earning income a separate chronometric-observation chart shall be compiled to contain the following information:

1) Business name of the taxpayer, identification number and of activity;

2) Date of conducting inspection;

3) Place of location of taxable objects and (or) objects relating to taxation;

4) Time of beginning and ending the chronometrical inspection;

5) Taxable objects and (or) objects relating to taxation, value of goods which are sold, work performed, serviced which are rendered;

6) Information on taxable objects and (or) objects relating to taxation;

7) Results of inspection;



8) Other information.

4. Daily at the end of an inspection day, a consolidated table shall be compiled for all inspected taxable objects and (or) objects relating to taxation, and also on other sources of earning income.

5. The chronometric observation chart and the consolidated table in accordance with the obligatory procedure shall be signed by the official person of the tax service authority and by the taxpayer (tax agent) or taxpayer (tax agent's) representative and attached to the report on the chronometric inspection.

Where appropriate, copy documents, computations and other materials obtained in the course of inspection which confirm information shown in the chronometrical observation chart, shall be attached to the chronometrical observation chart.

6. Results of a chronometrical inspection of taxpayers shall be taken into account when making assessments of amounts of taxes and other obligatory payments to the budget upon results of integrated and specialized audits.

**Article 635. The procedure for conducting specialized audits pursuant to the taxpayer's claim in the value added tax declaration for confirmation of the accuracy of amounts of value-added tax claimed for refund**

1. Specialized audits for confirmation of accuracy of amounts of value-added tax claimed for refund, shall be carried out with regard to taxpayers who filed value-added tax declarations by specifying a claim for refund of an excess value-added tax declaration.

2. A period under audit shall also cover the tax period for which a value-added tax declaration was filed with the statement of claim for refund of an excess value-added tax, and previous tax periods for which no audit was carried out with regard to this of tax, but not to exceed the period of the statute of limitations as established by Article 46 of this Code.

3. In case of export of goods when determining amounts of value-added tax to be refunded in accordance with this Code, information of the customs authority to confirm the facts of export of goods from the customs territory of the Custom Union in the customs procedure of export, presented in accordance with the form and in accordance with the procedure which are approved by the authorized body in coordination with the authorized governmental agency in a sphere of customs affairs.

The responsibility for information confirming facts of export of goods from the customs territory of the Custom Union in the customs procedure of export, shall rest with the customs authority.

In case of export of goods from the territory of the Republic of Kazakhstan to the territory of the state - member of the Custom Union when determining the amount of value-added tax that is subject to refunding in accordance with the Code the

information from the documents specified in Article 276-11 of the Code shall be considered.

3-1. When performing works on processing of customer's raw materials imported to the territory of the Republic of Kazakhstan from the territory of another state - member of the Custom Union with subsequent exportation of the processing products to the territory of another state, when determining the amount of value-added tax to be refunded in accordance with the Code the information from the documents specified in Article 276-13 of the Code shall be taken into consideration.

In case of performance of works on processing of customer's raw materials imported to the territory of the Republic of Kazakhstan from the territory of one state - member of the Custom Union, with subsequent sales of processing products to the territory of the state which is not a member of the Custom Union, in case of determining the amount of value-added tax to be refunded in accordance with the Code the information of the customs body confirming the exportation of processing products from the customs territory of the Custom Union in the customs procedure of export, filed in the form and procedure that are approved by the authorized body upon the coordination with the authorized state body in the sphere of customs affairs shall be taken into consideration.

The responsibility for the information confirming the exportation of processing products from the territory of the Custom Union in the customs procedure for export shall be made by the Tax Authority.

4. In case of export of goods when determining amounts of value-added tax to be refunded, export of goods on which currency receipts were received into bank accounts of the taxpayer in the second-tier bank in the territory of the Republic of Kazakhstan, opened in accordance with the procedure established by the Republic of Kazakhstan legislation, or actual import into the territory of the Republic of Kazakhstan of goods supplied to the value-added tax payer by the buyer of the goods exported under foreign trade barter (barter) contracts, shall be taken into account.

In case of export of goods under foreign trade barter (barter) transactions, when determining amounts of value-added tax to be refunded, the presence of a contract (agreement) for such foreign trade barter (barter) transactions, and also of the import freight customs declaration relating to the goods supplied to the value-added tax payer by the buyer of the goods exported under the foreign trade barter (barter) transaction, shall be taken into account.

In case of export of goods from the territory of the Republic of Kazakhstan to the territory of the state - member of the Custom Union under the foreign trade exchange (barter) operations, extension of a loan in the form of items when determining the amount of value-added tax to be refunded, the availability of the agreement (contract) for such foreign trade exchange (barter) operations, agreement (contract) for extension

of a loan in the form of items, and application for importation of goods and payment of indirect taxes on goods supplied to the value-added tax payer by the purchaser of the exported goods on the specified operations shall be taken into consideration.

In case of exportation of goods from the territory of the Republic of Kazakhstan to the territory of the state - member of the Custom Union under the lease agreement (contract) providing for transfer of title to a lessee, receipt of currency earnings to the value-added tax payer's bank accounts opened with a second-tier bank in the territory of the Republic of Kazakhstan in accordance with the procedure established by the legislation of the Republic of Kazakhstan confirming actual receipt of lease payment (as related to compensation of the initial cost of goods (lease Object) shall be taken into consideration.

In case of performance of works on processing of customer's raw materials imported to the territory of the Republic of Kazakhstan from the territory of another state - member of the Custom Union with subsequent importation of the processing products to the territory of another state or to the territory of a state which is not a member of the Custom Union, when determining the amount of value-added tax to be refunded pursuant to the Code, the information on receipt of currency earnings to the bank account of a value-added tax payer in the second-tier banks in the territory of the Republic of Kazakhstan, opened in the procedure established by the legislation of the Republic of Kazakhstan shall be taken into consideration.

Presentation of reports to the tax service authorities on receipt of currency proceeds, shall be carried out by the National Bank of the Republic of Kazakhstan and by second-tier banks in accordance with the procedure and form which are approved by the authorized body in coordination with the National bank of the Republic of Kazakhstan.

In order to receive such report the tax service authorities shall send the appropriate request on currency receipts as of the date on which the audit begins.

This paragraph on the foreign currency proceeds to the bank account of the taxpayer in banks in the Republic of Kazakhstan shall not apply to taxpayers referred to in paragraph 1-1 of Article 245 of this Code.

5. In order to receive such report, the tax service authority may appoint cross audits of direct suppliers of goods, work, services of the auditee taxpayer. If a direct supplier of goods, work, services of the auditee taxpayer is registered for value-added tax by another tax authority, the tax authority that appointed the specialized audit may forward to the relevant tax authority a request for conducting a cross audit of such supplier.

6. Confirmation of the accuracy of claimed amounts of value-added tax relating to transactions between the taxpayer who claimed a refund of value-added tax and the taxpayer's direct supplier who is a major taxpayer subject to monitoring, shall be

carried out by the tax authority that appointed a specialized audit on the basis of information on confirmation of the accuracy of amounts of value-added tax received from the tax service authority in response to a request sent by such tax authority.

A request shall be forwarded to the tax service authority in relation to a direct supplier which is a major taxpayer subject to monitoring, on which a decision is taken to send a request in accordance with the procedure provided for by paragraph 8 of this Article.

A request must contain information concerning the auditee taxpayer, direct supplier which is a major taxpayer subject to monitoring, number, date of the invoice issued by it, amount of turnover from sales of goods, work, services, amount of value-added tax, and also period under the audit shall be specified.

The tax service authority shall present information confirming the accuracy of amounts of value-added tax, including information on transactions not specified in the request for the period under the audit, committed between the direct supplier which is a major taxpayer subject to monitoring and the auditee taxpayer. Information confirming the accuracy of amounts of value-added tax shall be presented on the basis of tax accounting which the tax service authority has.

7. The following suppliers of a value-added tax payer, in respect of whom a specialized audit is carried out, shall not be subject to cross audits:

1) Those supplying electric and heating power, water and (or) gas, except for electric and heating power, water and (or) gas which are subsequently exported by their buyer;

1-1) those that performed the supply of communication services;

2) Nonresidents who perform work, render services, supply goods, not being value-added tax payers in the Republic of Kazakhstan and who do not carry on business through an affiliated branch, representative office;

3) Major taxpayers who are subject to monitoring.

8. A decision on appointment of an obligatory cross audit of a supplier and (or) on sending a request to the tax service authority for confirmation of the accuracy of value-added tax amounts on the basis of tax reports of major taxpayers who are subject to monitoring, shall be taken with regard to those direct suppliers of the value-added tax payers, whose value-added tax amounts credited by the value added tax payer on the basis of documents formulated by such suppliers is 80 per cent of total value-added tax credited by the value added tax payer on the basis of the documents formulated by all suppliers.

In that respect, amounts of value-added tax on imported goods and amounts of value-added tax based on invoices issued by the suppliers specified in sub-paragraphs 1), 2) of paragraph 7 of this Article, shall be deducted from the total value-added tax credited on the basis of the documents formulated by all suppliers.

In order to determine 80 per cent of total value-added tax offset, a list of suppliers of the value-added tax payer shall be compiled in a procedure of decrease of amounts of value-added tax specified in invoices made out by suppliers.

The first suppliers from this list, the total amount of value added tax upon invoices of which amounts to 80 percent of total value added tax, taken as an offset, shall be subject to obligatory counter-review on all mutual settlements with value added taxpayer and (or) request of confirmation of authenticity of value added tax amounts shall be sent to the tax service authority upon such suppliers.

9. No refund of value-added tax shall be made within amounts for which no response is received by the date of completion of the tax audit:

To the requests for conducting a cross audit for confirmation of accuracy of settlements with the supplier;

Where violations found in the course of cross audits pursuant to requests that had been sent previously were not eliminated by the supplier;

Where accuracy of amounts of value-added tax of a major taxpayer subject to monitoring on the basis of responses received from the tax service authority on previously sent requests is not confirmed.

In that respect, reasons for such non-refund of value-added tax shall be specified in report on the tax audit.

10. Refund of value-added tax shall be carried out on the basis of the report on tax audit, in accordance with the form established by the authorized body in the following cases:

1) When receiving responses to requests for conducting cross audits of suppliers of the auditee taxpayer, which are received after completing the tax audit;

2) where suppliers of the auditee taxpayer eliminate violations found in the course of cross audits pursuant to previously-forwarded requests, or if the tax service authority confirms the accuracy of amounts of value-added tax for a major taxpayer subject to monitoring, which were not confirmed on the previously-forwarded requests.

A resolution to the report on a tax audit shall be compiled in a number of not less than two copies and it shall be signed by the officials of the tax service authority. One copy of the resolution attached to the tax audit report, shall be delivered to the taxpayer, who must make a Footnote of receipt on the other copy of said resolution.

11. Where at the time of conducting a cross audit, the supplier terminated activity due to liquidation, confirmation of amounts of value added tax to be offset, shall be on the basis of the register of invoices on goods sold, work performed, services rendered.

12. In case of receiving responses to requests after completing a specialized audit, the tax authority not earlier than the twentieth day and no later than the twenty-fifth day of the last month of the quarter shall compile a resolution on the tax audit report.

In that respect, such resolution shall be compiled upon the results of Responses to requests for conducting cross audits, received as of the twentieth day of the last month of the quarter.

13. Total amount of value-added tax claimed for refund, based on the resolution on a specialized audit report and resolution on a tax audit report, must not exceed the amount specified in the claim of refund of excess value-added tax in the value-added tax declaration for the audited period.

14. Provisions of this Article shall also apply in the case of inclusion by the tax service authority of the issue of confirmation of the accuracy of amounts of value-added tax claimed for refund, into an integrated audit.

**Footnote.** Article 635 is amended by the Law of the Republic of Kazakhstan dated 12.02.2009 N 133-IV (the order of enforcement See Article 2) of 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009) dated 30.12.2009 No. 234-IV (the order of enforcement See Article 2) dated 30.06.2010 No. 297-IV (order of enforcement See Article 2) dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011); dated 22.06.2012 No. 21-V (shall be enforced from 01.01.2009).

**Article 635-1. Procedure for specialized audits of tax agents with respect to income tax refund from the budget or conditional bank deposit on the basis of the tax application of a nonresident**

1. A specialized audit with respect to income tax refund from the budget or conditional bank deposit on the basis of tax application of a nonresident shall be conducted with respect to the tax agent in order to check whether the tax agent fulfills the tax obligations on assessment, withholding and transfer of income tax at source of payment from income of the nonresident submitted such application for the of limitation established by Article 46 of this Code.

2. The tax authority must appoint a specialized audit specified in paragraph 1 of this article on the basis of tax application of a nonresident within ten working days upon receipt of such application.

3. During the specialized audit the tax authority shall check the documents for:

1) Complete fulfillment by the tax agent of its tax obligations on assessment, withholding, and transfer of income tax at source of payment from income of the nonresident;

2) Incorporation of a permanent establishment in accordance with Article 191 of this Code or international treaty;

3) Record registration of the applying nonresident in accordance with the legislation of the Republic of Kazakhstan concerning state registration of legal entities and record registration of branches and representative offices, registration as a taxpayer in accordance with the procedure provided for by Article 562 of this Code;

4) Reliability of data specified in the tax application for income tax refund from the budget or conditional bank deposit;

5) Compliance with the terms and conditions of the agreement for conditional bank deposit by the parties thereto if such agreement is concluded with a nonresident.

**Footnote. Article 635-1 is supplemented in accordance with the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 636. Access of officials of the tax service authorities to the territory or offices for conducting tax audits**

1. The taxpayer (tax agent) shall allow the officials of the tax service authority, who carry out a tax audit, to the territory and (or) offices (except for housing), which are used for earning income, or to taxable objects and (or) objects relating to taxation, for inspection.

2. A report on non-admission of officials of the tax services for the performance of a tax audit, shall be compiled in the event that such officials of the tax service authority conducting a tax audit are denied access to said territory and (or) offices (except for housing).

3. A report on non-admission of officials of the tax service for conducting a tax audit, shall be signed by the officials of the tax service who carry out the tax audit and by the taxpayer (tax agent). In the case of refusal to sign said report, the taxpayer (tax agent) shall provide written explanations of reasons for such refusal.

4. Officials of the tax service must have the special permits, where they are required for the admission to a territory and (or) offices of the taxpayer (tax agent), in accordance with the legislative acts of the Republic of Kazakhstan.

5. The taxpayer (tax agent) have the right not to allow officials of the tax service authority to the territory or premises for conducting a tax audit, in the following cases:

1) The injunction has not been formulated in accordance with the established procedure;

2) Time of the audit which is specified in the injunction, has not come or expired;

3) Those persons are not mentioned in the injunction;

4) Officials of the tax service authority have not on themselves the special-purpose permits, which are required for access into the territory or offices of the taxpayer in accordance with the legislative acts of the Republic of Kazakhstan.

#### **Article 637. Completion of a tax audit**

1. Upon completion of a tax audit, the official person of the tax service authority shall compile a tax audit report by specifying the following:

- 1) Place of conducting the tax audit, dates for the compilation of the report;
- 2) of audit;
- 3) Positions, surnames, names, patronymics (where available) of the officials of the tax service authority who carried out the audit;
- 4) Name of the tax service authority;
- 5) Surname, name, patronymic (where available) or full business name of the taxpayer (tax agent);
- 6) Places of location, bank details of the taxpayer (tax agent), and the taxpayer (tax agent's) identification number;
- 7) Surname, name, patronymic (where available) of the head and officials of the taxpayer (tax agent) who are in charge of the tax accounting and financial accounting and payment of taxes and other obligatory payments to the budget;
- 8) Information on previous audits and steps taken for the elimination of previously found violations of the tax legislation of the Republic of Kazakhstan (when conducting integrated, specialized audits);
- 9) Period under the audit and general information on the documents to be presented by the taxpayer (tax agent) for conducting the audit;
- 10) Detailed description of the tax violation with reference to appropriate rule of the tax legislation of the Republic of Kazakhstan;
- 11) Results of the tax audit.

2. The date of delivery to the taxpayer (tax agent) of a tax audit report shall be recognized as completion of the tax inspection.

At the receipt of the tax audit report the taxpayer (tax agent) shall verify its receipt by signing a copy of the tax audit report issued by the Tax Service Authorities.

In case of failure to deliver a report to the taxpayer (tax agent) due to absence of a taxpayer (tax agent) at the place of location, the tax inspection engaging witnesses shall be performed in the procedure established by the Code. Therewith the date of completion of the tax inspection shall be the date of compilation of the tax inspection report.

3. In the event that upon completion of a tax audit no violations of the Republic of Kazakhstan were found, appropriate Footnote shall be made in the tax audit report.

4. In cases of absence of the taxpayer (tax agent) on the date of completion of the tax audit in the place of location of the taxpayer (tax agent) and (or) in the place of conducting the tax audit, appropriate Footnote shall be made in the tax audit report by the official person of the tax service authority who carries out the tax audit.

5. Appropriate copies of documents, computations performed by the official person of the tax service authority and other materials received in the course of the tax audit, except for information which is recognized as tax secrecy in accordance with Article 557 of this Code shall be attached to the tax audit report.



6. The tax audit report shall be compiled in a number not less than two copies and it shall be signed by the officials of the tax service authority who conducted the tax audit. One copy of the tax audit report shall be delivered to the taxpayer (tax agent).

7. Where, during the period from the date of receiving the liquidation tax reports until the date of completion of the liquidation tax audit, obligations emerge with regard to assessment and payment of taxes and other obligatory payments to the budget, computation, withholding, transfers of obligatory pension contributions and computation and payment of social assessments, such obligations shall be specified in the supplement to the tax audit report without assessment of penalties and application of fines.

**Footnote. Article 637 is amended by the Law of the Republic of Kazakhstan dated 17.07.2009 N 188-IV (order of enforcement See Article 2) dated 30.06.2010 No. 297-IV (the order of enforcement See Article 2).**

#### **Article 638. Decision on results of a tax audit**

1. Upon the completion of the tax audit in case of finding violations that result in assessment of tax amounts and other obligatory payments to the budget, obligations on assessment, retention, transfer of obligatory pension contributions, assessment and payment of social assessments and fines, reduction of losses, non-confirmation for refunding of value-added tax excess amounts and (or) corporate (individual) income tax withheld at the source of payment from nonresidents' income the Tax Service Authority shall pass a notice on the results of the tax audit, which shall be sent to the taxpayer (tax agent) within the period established in accordance with Article 607 of the Code.

2. Registration of notices on the results of the tax audit, and tax audit report, shall be carried out by the tax service authority under one number, except for the case established by paragraph 7 of this Article.

3. The following details and information must be presented in the notice on the results of a tax audit:

- 1) Registration date and number of the tax audit notice and report;
- 2) Surname, name, patronymic (where available) or full business name of the taxpayer (tax agent);
- 3) Identification number;
- 4) Total taxes and other obligatory payments to the budget, obligations relating to the computation, withholding, transfer of obligatory pension contributions and computation and payment of social assessments and penalties, assessed;
- 5) Amounts of reduced losses;
- 6) Amounts of excess value-added tax, not confirmed for refund;

7) Total corporate (personal) income tax withheld at source of payment from income of nonresidents, not confirmed for refund;

8) Requirement to pay and deadlines for the payment;

9) Details of the relevant taxes and other obligatory payments to the budget and penalties;

10) Terms and place of lodging a complaint

4. In case of tax audit, carried out within the framework of initiated criminal case, the notice of results of taxpayer's tax audit against whom a criminal case has been opened, shall be pronounced upon the completion of legal investigation of such criminal case.

5. Tax payer (tax agent), who received a notice of results of tax audit shall perform it within the time limits as defined in notice if the results of tax audit are not appealed by him.

6. In case of taxpayer's consent (tax agent) with assessed amount of tax, other obligatory payments to the budget and penalties indicated in the notice of results of the tax audit, period for the performance of tax liabilities on tax payment, other obligatory payments to the budget and also obligations on the payment of penalties can be extended for sixty working days upon the application of taxpayer (tax agent) with the enclosure of payment schedule.

Mentioned amount is liable to be paid to the budget with accruals of penalties for each day of extension of a time limit of payment and shall be paid in equal installments every fifteen working days of the mentioned period.

Period for performance of tax liabilities is not liable to be extended in order provided for by this paragraph:

On payment of accrued amounts of excise and taxes based on the results of tax audit which are withheld from the source of payment;

On payment of accrued amounts of taxes, other obligatory payments to the budget and penalties are based on the results of tax audit after appeal of audit results.

7. In case if upon completion of tax audit, the violation of the tax legislation of the Republic of Kazakhstan is not established, the notice based on the results of tax audit shall not be pronounced.

8. Amount of liabilities, mentioned in paragraph 7 of Article 637 of this Code is reflected in the notice of accrued amounts of taxes and other obligatory payments to the budget, obligatory pension taxes, social expenditures for the period from the date of accounting of liquidating tax reporting until the date of consummation of liquidating tax audit served to the taxpayer in order established by Article 608 of this Code.

9. If in the course of unscheduled documentary inspection except thematic inspections mentioned in paragraphs fifteen and sixteen of sub-paragraph 2) of paragraph 5 of Article 627 of this Code for the same tax period on the one and the

same subject, tax administration agency detected the fact of violations of the legislation of the Republic of Kazakhstan by taxpayer, which was not detected in the course of any other previous tax audits, for such violations of taxpayer the sanction shall not be applied.

Provision of this paragraph shall not be extended to violations of tax legislation of the Republic of Kazakhstan, detected in:

1) part of reducing the amount of tax payment by taxpayer to the budget or payment by means of presentation of additional tax reporting for earlier proved tax period for this of tax or pay;

2) in response to the request of the tax authority, aimed at carrying out any of the previous tax audits of the same tax period, if such response is received after the completion of the audit;

3) on the results of documents affecting to be paid to the amount of tax or fee and a written request of the tax service not presented by the taxpayer in the course of any of the previous tax audits of the same tax period for this of tax or fee;

4) in terms of operations with the taxpayer recognized by the factious enterprise after the entry of the sentence or order of the court into force, if the disclosure of information of such taxpayer on the website of the body took place after the completion of any of the previous tax audits of the tax period in which such operations were performed;

5) in the part of the transaction (s), performed (performed) with the subject of private enterprise without the intention to carry out business activities, following the entry into force of the sentence or order of the court, if the tax authority information about this transaction (s) was first obtained after the completion of any previous tax audits of the tax period in which such (such) a transaction (deal) was committed (committed).

**Footnote. Article 638 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (for order of enforcement see the Article 2) dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2011).**

### **§ 3. Identification of taxable objects and (or) objects relating to taxation, by indirect method**

#### **Article 639. General provisions**

1. In case of violation of the accounting procedures, in the case of loss or destruction of accounting documents, the tax service authorities shall determine the taxable objects and (or) objects relating to taxation on the basis of indirect methods (assets, liabilities, turnover, expenditures, costs) in accordance with the procedure defined in Articles 639 - 642 of this Code.

2. Absence or failure of the taxpayer (tax agent) to present documents which are recognized as the basis for determining taxable objects and (or) objects relating to taxation for the assessment of tax liability, which are requested on the basis of the requirements of the tax service authorities in accordance with paragraph 4 of Article 629, shall be recognized as violation of accounting procedures, loss or destruction of accounting documents.

3. Determining amounts of taxes and other obligatory payments to the budget on the basis of assessment of assets, obligations, turnover, expenditures and also valuation of other taxable objects and (or) objects relating to taxation which are considered when computing the tax liability relating to specific taxes and other obligatory payments to the budget in accordance with this Code, shall be recognized as indirect methods of determining taxable objects and (or) objects relating to taxation.

**Article 640. Tax audits in the case of absence of accounting or other documents (information)**

If during a documentary tax audit, the taxpayer (tax agent) fails to submit all or part of the documents which are required for determining taxable objects and (or) objects relating to taxation, the taxpayer (tax agent) in accordance with the obligatory procedure shall be given the request of the tax service authority for presentation or restoration of said documents, and also the notice on suspension of the tax audit.

The request of the tax service authority shall be subject to implementation within thirty working days from the day following the day of delivery to the taxpayer (tax agent) of the request.

The taxpayer (tax agent) who, pursuant to the tax service authority request failed to present the documents which are needed for determining taxable objects and (or) objects relating to taxation, shall explain the reasons for non-submission of said documents.

**Article 641. Sources of information**

1. In order to determine taxable objects and (or) objects relating to taxation on the basis of indirect methods, the tax service authorities, in relation to circumstances, nature and of business of the auditee taxpayer (tax agent), may use the following information:

1) Statements of banks and organizations carrying out separates of banking transactions concerning presence and movements of funds in bank accounts of the taxpayer (tax agent);

2) On taxable objects and (or) objects relating to taxation, based upon the information of the authorized state bodies, non-governmental organizations, local executive authorities;

3) On assessments and receipt by the budget of amounts of taxes and other obligatory payments to the budget (in the basis of the official account of the taxpayer (tax agent) to be compared with the accounting information of the taxpayer (tax agent);

4) On taxable objects and (or) objects relating to taxation, as received from the tax reports submitted by the taxpayer (tax agent) for the tax period under the audit and preceding tax periods;

5) On results of cross audits with regard to persons to whom goods were shipped and (or) work performed, and (or) services rendered, obtained through information systems of the state authorities and also from other sources;

6) Received by the tax service authority when conducting inspection and (or) inventory taking of assets (except for housing) of the auditee taxpayer (tax agent) which is a taxable Object and (or) Object relating to taxation.

2. The tax service authorities shall send requests to the following institutions:

1) Banks and organizations carrying out separates of banking transactions;

2) Appropriate authorized state bodies, non-governmental organizations, local executive authorities;

3) Other tax authorities, for conducting cross audits on issues of mutual settlements with contractors and customers of the auditee taxpayer (tax agent);

4) Competent authorities of foreign states.

3. Relevant information may be received also from the following sources (to be confirmed by documents):

1) From customers on the price of the services furnished by the auditee taxpayer (tax agent) and from buyers on the price and quantity of purchased goods;

2) From individuals and legal entities rendering services to the auditee taxpayer (tax agent), providing raw materials, energy resources and accessory materials in the sphere of manufacture and handling certain excisable goods.

4. Sources of information may be different in each specific case, in relation to circumstances, nature and of business of the auditee taxpayer (tax agent).

#### **Article 642. The procedure for identifying taxable objects and (or) objects relating to taxation**

1. Identifying taxable objects and (or) objects relating to taxation shall be carried out on the basis of information which is received in accordance with the procedure established by Article 641 of this Code.

2. For the computation of income, information shall be used concerning receipt of funds into bank accounts, payment cards and also other payment and settlement documents of the taxpayer (tax agent), which is confirmed by the bank account statements, and other information (documents) confirming facts of receipt of funds by the taxpayer (tax agent).

3. When organizations or individuals defined in Article 641 of this Code provide information concerning an auditee taxpayer (tax agent) having other income received (receivable), amounts of such income shall be subject to inclusion into total income (taxable turnover).

4. In case of establishing facts of taxpayers' receipt of currency proceeds from export transactions on the basis of information provided by the National Bank of the Republic of Kazakhstan and second-tier banks, as well as by the Tax Authorities of the states - members of the Custom Union, that amount of currency receipts shall be included into the sales turnover and aggregate annual income.

5. When determining taxable objects and (or) objects relating to taxation in accordance with this Article, costs of the taxpayer (tax agent) which are not confirmed by sourcing documents shall not be recognized as deductions for the assessment of corporate income tax and nor as offset for the value-added tax assessment.

6. The tax base for excisable goods shall be determined on the basis of paragraphs 1 and 2 of Article 283 of this Code. In that respect, the quantity of manufactured excisable goods shall be determined in accordance with the sectoral standard costs and losses of raw materials, energy resources and accessory materials.

7. In the event of absence (loss, destruction) of the taxpayer (tax agent's) documents which confirm the historic cost of main assets in particular of objects of construction in progress, transport vehicles, land plots, intangible assets, investment real estate, the aggregate income of such taxpayer shall comprise the market value of such assets.

8. Market value of objects specified in paragraph 7 of this Article, shall be determined on the basis of the report of the appraiser to be invited by the tax service authorities, who carries out business in accordance with the Republic of Kazakhstan legislation.

9. Funds in the case of establishing facts of withdrawal of such funds from bank accounts, for payment of work remuneration and (or) transfer of funds from the bank account to card-accounts of individuals, may serve as taxable object for the personal income tax.

In that respect a tax liability shall arise at the time of the bank's performance of the taxpayer (tax agent's) instructions for the transfer (handing over) to the taxpayer (tax agent) or third parties of such amounts of money.

10. Information on taxable objects and (or) objects relating to taxation derived by the tax service authorities on the basis of indirect methods, shall be compared with the relevant information specified by the taxpayer (tax agent) in the tax declarations (assessments) and other reports submitted to the tax service authorities.

11. If amounts of taxes and other obligatory payments to the budget, declared by the taxpayer (tax agent) in the tax reports are greater than amounts of taxes determined

on the basis of applying indirect methods, the amounts specified by the taxpayer (tax agent) in the tax reports shall be used for audits.

12. If amounts of income declared by the taxpayer (tax agent) in tax reports is greater than the amount of income found from other (additional) information sources, the amount of income specified in tax reports shall be used for audits.

**Footnote. Article 642, as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

#### **Article 643. Identification of taxable objects in certain cases**

1. Where income of an individual presented in the tax declaration is not consistent with such person's expenditures made for personal consumption, in particular for purchase of assets, the tax service authorities shall determine income and tax on the basis of expenditures made by such person in view of income of previous periods.

2. Income shall also be subject to tax in the cases where other persons and authorities challenge the legality of earning such income.

3. Where pursuant to court decision, income is subject to seizure for the budget in the cases specified by the legislative acts of the Republic of Kazakhstan, such income shall be seized without deducting amounts of tax paid out of it.

### **Chapter 90. THE PROCEDURE FOR THE APPLICATION OF CASH REGISTER MACHINES**

#### **Article 644. Fundamental definitions used in this chapter**

The following definitions have been used in this Chapter:

1) Cash register machines - fiscal modules, electronic devices with a module of fiscal memory and (or) computer systems ensuring registration and presentation of information on cash settlements which are carried out in the course of selling goods, work, services;

2) State register of cash register machines (hereinafter - state register) - list of cash register machines, which are allowed by the authorized body to be used in the territory of the Republic of Kazakhstan;

3) Registration card of a cash register machine - accounting document confirming the fact of registration (deregistration) of a cash register machine by the tax authority;

4) Center for technical services of cash-register machines (hereinafter Center for technical services) a business entity which in accordance with its charter (type of business) carries out activities associated with technical services of cash-register machines;

5) Receipt - primary accounting document by the cash register machine which confirms facts of performance of monetary settlements between the seller (provider of goods, work, services) and buyer (customer);

6) Book for accounting for cash - journal for accounting for shift turnover of cash, receipts, and readings of the fiscal memory of the cash register machine;

7) Terminal for payments for services - electronic devices which accept cash as payment for services in an automated regime;

8) Seal of the tax authority - protection method from unauthorized opening of the cash register machine;

9) Official person of the taxpayer - taxpayer or a person who is in employment relations with the taxpayer, who carried out settlements with the buyer (customer) by applying cash register machines and responsible for its functioning;

10) Vending machine - electronic devices selling goods for cash in an automated regime;

11) Invoice - sourcing accounting document confirming the fact of performance of a cash settlement, which is used in the cases of technical disorders of the cash register machine or lack of electricity;

12) Invoice book - all invoices incorporated into one book;

13) Fiscal parameter - a distinguishing symbol which is shown on receipts as confirmation of the functioning of the cash-register machine in a fiscal mode;

14) Fiscal data - information on cash settlements, which is fixed in the fiscal memory of the cash register machine;

15) Fiscal report - report on changes in readings in the fiscal memory of the cash register machine for certain period;

16) Fiscal memory - a set of hardware and software providing for non-correctible shift-by-shift registration and energy-supply independent long-term storage of resulting information on cash settlements performed;

17) Fiscal mode - mode of functioning of a cash register machine which provides for non-correctible registration and energy-supply independent long-term storage of information in fiscal memory.

**Footnote. Article 644 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009).**

## **Article 645. General provisions**

### **Note of the RCLI!**

**Paragraph 1 is suspended until 01.01.2013 by the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV.**



1. In the territory of the Republic of Kazakhstan monetary settlements which are carried out in the course of commercial transactions, works, services for cash money, shall be carried out with the obligatory use of cash register machines.

Provisions of this paragraph shall not apply to the following monetary settlements of the persons as follows:

1) Individuals who are not subject to obligatory state registration as individual entrepreneurs, except for persons who carry out private notarial business;

2) Individual entrepreneurs (except for those marketing excisable goods) as follows :

Carrying on business on the basis of a patent within the frame work of the special tax regime for small business entities;

Carrying on business within the frame work of the special tax regime for peasant farms and farmer holdings;

3) With regard to rendering services of public transportation by municipal transport to the population, by issuing tickets in accordance the form approved by the authorized state body in the sphere of transport in coordination with the authorized body;

4) National Bank of the Republic of Kazakhstan.

2. The local executive authorities no later than the 20th day of the month following a reporting quarter shall submit to the tax authorities in the place of location a report on use by the taxpayers of tickets in relation to rendering to the population of public municipal transportation carriage, in accordance with the form approve by the authorized body.

3. Vending machines and terminals for payment for services, which carry out monetary settlements through cash money, shall be equipped with cash register machines of which models are included into the state register.

4. The following requirements shall be applied when using cash register machines:

1) Registration of a cash register machine is carried out by the tax authority prior to beginning the business associated with monetary settlements through cash money;

2) Issuing of receipts of cash register machines or invoices in amounts paid for goods, work, services (except for cash register machines which are used in a vending machines), is to be carried out;

3) Access of the officials of the tax authorities to a cash register, is to be provided.

**Footnote. Article 645 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2009 from 01.01.2011) dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2012).**

#### **Article 646. Registration of cash register machines by the tax authority**

1. Technically sound control and cash register machines, the models of which are included into state register, unless otherwise is established by this paragraph, shall be

subject to registration with tax authorities upon the place of control and cash machine use.

Control and cash register machines, being computer systems, which trade automates and terminals of payment for services are equipped with, shall be subject to registration with tax authority upon the place of use every trade automat and (or) terminal of payment for services.

Control and cash register machines, used during fulfillment of itinerant trade from mobile stores and (or) stalls, shall be registered with tax authority upon location of such taxpayers.

2. The tax authorities shall not register cash register machines of the taxpayers who are not subject to the requirement of using cash register machines in accordance with paragraph 1 of Article 645 of this Code.

3. Registration of cash register machines shall be carried out by assignment of a registration number of the cash register machine and issuing a registration card of the cash register machine, within five working days from the date of submission by the taxpayer of a tax application for the registration of a cash register machine at the tax authorities.

4. The taxpayer shall present the following when registering cash register machines by the tax authorities, except for the cash register machines which are computer systems:

- 1) Tax application for registration of a cash register machine by the tax authorities;
- 2) Cash register machine containing information on the taxpayer, of which the entry is impossible without establishing the fiscal mode;
- 3) Passport of the manufacturer;
- 4) Cash book and invoice book paginated, bound, certified with the signature and (or) seal of the taxpayer.

5. When registering a cash register machine which is a computer system, the taxpayer shall submit to the tax authority at the place of their location the following:

- 1) Tax application for registration of a cash register machine by the tax authorities;
- 2) Brief description of functionalities and parameters of the computer system;
- 3) Manual for the use of the "Working Station of the Tax Inspector" module of the computer system model submitted for the registration by the tax authority, and provides access to it.

6. The official person of the tax authority when registering a cash register in the accounts of the tax authority, except for computer systems, shall:

- 1) Check the matching of information specified in the tax application with the presented documents;
- 2) Check the manufacturer's number of the cash register as specified on the number plate containing the number specified in the passport from the manufacturing factory;

- 3) Review the accuracy of formulation of the cash book and invoice book;
- 4) Establishes the fiscal mode of the functioning of the cash register machine;
- 5) Fixes the seal of the tax authority on the body of the cash register machine;
- 6) Formulate a registration card of the cash register machine;
- 7) Certify the cash and invoice books with personal signature, signature of the manager and seal of the tax authority;
- 8) Return to the taxpayer the following:
  - Cash register machine with the established fiscal mode of operation and the seal of the tax authority;
  - Certified cash and invoice books;
  - Passport of the manufacturer's factory of the cash register machine.

7. When registering a cash register machine which is a computer system, the official person of the tax authority shall carry out the acts specified in sub-paragraphs 1), 4) and 6) of paragraph 6 of this Article. In that respect, establishing the fiscal mode of a computer system shall consist in activating facilities for cryptographic protection of information from unauthorized access to fiscal data of a computer system.

8. The registration card of the cash register machine shall be handed over to the taxpayer when registering the cash register machine by the tax authorities, it shall be kept during the entire period of operation of a given cash register machine and it shall be presented upon request of the tax authorities.

9. The form of the registration card for cash register machines, invoices, acts on readouts of fiscal reports, cash book and invoice book shall be established by the Government of the Republic of Kazakhstan.

**Footnote. Article 646 as amended by the Laws of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010), dated 05.07.2011 No. 452 -IV (shall be enforced from 01.01.2012), dated 21.07.2011 No. 467 -IV (shall be enforced from 01.01.2012).**

#### **Article 647. Alteration of registration details of cash register machine**

1. In the event of changes in the data specified in the cash register machine registration card, within five working days upon occurrence of such changes the taxpayer must submit to the tax authority for the place of the cash register machine registration:

- 1) A tax application for registration of the cash register machine with the tax authority with specification of the data changed;

2. The registration card shall be replaced by the tax authority for the place of cash register machine registration in case of:

- 1) Loss (damage) of the registration card - within five working days from the date of receipt of the tax application provided for by paragraph 1 of this article;

2) Change in the details specified in the registration card - within five working days from the date of receipt of the tax application provided by paragraph 1 of this article;

3) Absence of identification number in the registration card - within three working days from the date of receipt of the tax application provided by paragraph 1 of this article.

In any case provided by this sub-paragraph the taxpayer shall attach one of the following documents to the tax application:

1) Notarized copy of the document confirming existence of the identification number;

2) Copy of the document confirming the existence of the identification number - subject to presentation of the original document.

No copy of the document confirming existence of the identification number shall be attached to the tax application submitted to the tax authority for replacement of the cash register machine registration card if it is presented to such tax authority for replacement or re-execution of other document for the purpose of specification therein of the identification number in accordance with this Code.

3. The official of the tax authority shall execute and issue the cash register machine registration card with the registration details changed to the taxpayer within five working days from the date of acceptance of the tax application by the tax authority.

4. When a new cash register machine registration card is issued, the cash register machine registration card earlier issued by the tax authority must be returned to the tax authority, except when this cash register machine registration card was lost (damaged) by the taxpayer.

**Footnote. Article 647 is in the wording of the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).**

#### **Article 648. Deregistration of a cash register machine by the tax authorities**

1. Deregistration of a cash register machine from accounts shall be carried out in the following cases:

1) Termination of activity associated with cash settlements which are carried out in the course of trade transactions, when executing works, rendering services for cash money;

2) Change of place of use of a cash register machine or place of location of the taxpayer who uses a given cash register machine in a vending machine or terminal for payment for services, where such change requires registration of the cash register machine by another tax authority;

3) Impossibility of further use in connection with technical disorders of a cash register machine;

4) Exclusion of a cash register machine from the state register;

5) In other cases which do not contradict the Republic of Kazakhstan legislation.

2. For deregistration of a cash register machine by the tax authority, except for computer systems, the taxpayer shall submit to the tax authority simultaneously with the tax application for deregistration of a cash register machine the following:

- 1) Cash register machine with the fixed seal of the tax authority;
- 2) Passport of the manufacture's factory of the cash register machine;
- 3) The cash and invoice books paginated, bound, certified with the seal of the head and the seal of the tax authority;
- 4) Registration card of the cash register machine.

3. For deregistration of a cash register machine which is a computer system, the taxpayer shall submit to the tax authority the following: a tax application for deregistration of a cash register machine, registration card of the cash register machine and provide access to the "Working Station of the Tax Inspector" module.

4. The official of the tax authority within five working days from the date of registration by the tax authority of an application for deregistration of a cash register machine, shall carry out deregistration of the cash register machine, for which such official shall:

- 1) Read-out the fiscal report;
- 2) Carry out in-house supervision and comparison of information from the cash book with the readings of the fiscal report and data of the book for invoices;
- 3) Make a record on closing the cash book and book for invoices;
- 3-1) removal of the tax authority's seal from the body of cash register machine;
- 4) Return the following to the taxpayer:  
Cash register machine;  
Cash and invoice books;  
Registration card with the Footnote on deregistration of the cash register machine.

5. When deregistering a cash register machine which is a computer system, the official person of the tax authority shall read-out the fiscal report and return to the taxpayer the registration card with the Footnote on deregistration of the cash register machine.

**Footnote. Article 648 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (the order of enforcement see the Article 2).**

#### **Article 649. Read-out of a fiscal report and requirements concerning contents of a receipt**

1. Fiscal reports shall be read-out by the tax authorities in the following cases:

- 1) Conducting tax audits;
- 2) Replacement of the memory module of a cash register machine;
- 3) Deregistration of a cash register machine;

4) Conducting repairs of a cash register machine which requires the introduction of a password for access to fiscal memory;

5) Full completion of the cash book;

6) Loss (destruction) of the cash book.

2. In order to read out a fiscal report, the following documents and the cash register machine shall be submitted to the tax authority:

1) Cash and invoice books paginated, bound, certified with the seal of the head and the seal of the tax authority;

2) shift-by-shift reports from the date of the last fiscal report.

When reading out a fiscal report, the act on reading out a fiscal report shall be compiled of which the details shall be entered into the information system of the tax authorities.

3. A receipt of a cash register machine, except for computer systems, must contain the following information:

1) Business name of the taxpayer;

2) Identification number;

3) Manufacturer's number of the cash register machine;

4) Registration number of the cash register machine issued by the tax authority;

5) Receipt's number;

6) Date and time of purchase of goods, performance of work, rendering of services;

7) Price of goods, work, services and (or) total purchased;

8) Fiscal symbol.

A receipt of computer systems (except for computer systems used by banks and organizations carrying out separates of banking transactions) must contain information specified in sub-paragraphs 1) - 7) of this paragraph.

Form and contents of a receipt of the computer systems used by banks and organizations carrying out separates of banking transactions shall be established by the National Bank of the Republic of Kazakhstan in coordination with the authorized body.

A receipt of a cash register machine which is used at exchange offices, metal scrape procurement centers, glass tare collectors, pawn-shops, must additionally contain information on total sales and total purchases.

4. A receipt may additionally contain information as specified by the technical documentation of the manufacture's factory of the cash register machine, in particular on amounts of value-added tax.

## **Article 650. Operation of cash register machines**

1. The person in charge of the taxpayer, when operating a cash register machine shall:

1) Carry out the operations of entering the value of the goods, work, services in accordance with the manuals for the operation of the cash register machine;

2) In case of lack of electric energy or disorders of the cash register machine, complete and issue invoices;

3) complete the cash book;

4) When completing a shift, carry out the procedure of "End of shift" by way of reading out the shift report (Z-report) in accordance with the technical requirements of the manufacturer of a given model of the cash register machine.

Shift reports, cash and invoice books, and also annulment, return and the receipts for which annulment and return operations were made, must be kept by the taxpayer for five years from the date of their seal or full completion.

For cash register machines, except for those which are used in vending machines, the time of a shift must not exceed twenty-four hours.

For cash register machines with which vending machines are equipped, the time of a shift shall be determined by the taxpayer and it must not exceed one calendar month.

2. Transactions of annulment of amounts entered by mistake, or refund of cash money for sold goods, performed work, rendered services shall be in accordance with the technical requirements of the manufacturer of a given model of the cash register machine, provided the origin of the receipt and entry made is present in the book for accounting for cash money.

3. Those cash books must be consistent with the information of shift reports on relevant days.

4. Information of a report on current status of cash must be consistent with the total cash money at the cash department at the time of reading out the report, considering amounts of cash money received and withdrawn, not connected with selling goods, performance of work, rendering of services as shown in the cash book.

5. In the case of a technical disorder of a cash register machine, of which the elimination is impossible without violating the integrity of the seal of the tax authority, the taxpayer within three working days from the time of emergence of a disorder shall file the following to the tax authority by which the cash register machine was registered:

1) Tax application specifying the number, date of issue of the registration card of the cash register machine and total parameters of the counter at the beginning of the day when a disorder took place;

2) Report from the center for technical services with a motivated statement of deadlines for repair and causes of the disorder.

The tax authority on the date of receiving a tax application shall take a decision to issue or deny issue of an authorization for breaking the seal of the cash register machine for the elimination of a disorder.

The authorization of the tax authority for breaking the seal of a cash register machine shall be issued in accordance with the form established by the Government of the Republic of Kazakhstan, official person for the tax authority who is in charge of fixing seals, on the day of taking the decision to issue it.

The tax authority shall deny issuing an authorization of the tax authority for breaking the seal in case of failure to present or presentation of documents specified in sub-paragraphs 1), 2) of this paragraph, with incomplete information.

Time of submitting a cash register machine to the tax authority for fixing a seal after eliminating a technical disorder, may not be less than time of conducting repairs as specified in the report of the center for technical services, but not more than fifteen working days from the date of issue of the authorization of the tax authority for violation of integrity of a seal.

6. A cash register machine shall be deemed to be technically out-of-order, in the following cases:

- 1) It does not print unclear or details on receipts which are defined in Article 649 of this Code are printed in parts;
- 2) It is impossible to read out data of the fiscal memory;
- 3) Seal of the tax authority is absent or damaged;
- 4) Marks of the manufacturer are absent.

7. A cash register machine which is a computer system shall be deemed technically out-of-order in the cases specified in sub-paragraphs 1) and 2) of paragraph 6 of this Article.

8. In the case of full completion of a cash book and (or) invoice book, or in the case of their loss (destruction), the taxpayer for their replacement (restoration) for five working days shall submit to the tax authority in the place of registration of the cash register machine the following:

- 1) Tax application;
- 2) New cash and invoice books paginated, bound, certified with the signature and (or) seal of the taxpayer;
- 3) Documents as defined in paragraph 2 of Article 648 of this Code.

In the case of full completion or loss (destruction) of the cash book, in addition, the cash register machine shall be submitted to the tax authority for reading out the fiscal report.

9. Within five working days from the time of registration of a tax application by the tax authority, the tax authority shall carry out replacement of cash and (or) invoice books.

**Footnote. Article 650 as amended by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012).**



## **Article 651. The state register**

1. The authorized body shall maintain the state register of cash register machines by way of including (excluding) models of cash register machines into (out of) the state register.

2. Examining issues of including a model of cash register machines into the state register shall be carried out on the basis of the tax application of an interested person.

3. A sample piece of the cash register machine and the following materials describing the technical, functional and operational parameters of a given model cash register machine shall be attached to the tax application:

- 1) Passport of the manufacturer's factory;
- 2) Technical documentation of the manufacturer's factory;
- 3) Sample of receipts and reports to be formulated, printed out both by the manufacturer's factory and the applicant from the cash register machine in the fiscal and non-fiscal mode;
- 4) Operation manual of the cash register machine on paper and electronic medium;
- 5) Manual for the official of the tax authority on paper and electronic medium, containing a detailed description of the operations of the official person of the tax authority when setting the fiscal mode, reregistering the cash register machine, reading out fiscal reports, reports on current cash status (X-report), and also entering information as specified in Article 649 of this Code, for printing on receipts;
- 6) Warranty of the manufacturer's factory concerning technical support of a given model of cash register machines;
- 7) Information on compliance of technical parameters of a given model of cash register machines as specified in the manufacturer's factory documentation, with the main technical requirements, in accordance with the form established by the authorized state body;
- 8) Notarized copy certificate of compliance of a given model of the cash registers;
- 9) Color photograph of a given model of the cash register machine on paper and electronic medium.

Where a fiscal register is a given model of a cash register machine, additionally, software on an electronic medium for the connection of the fiscal register to a personal computer, shall be attached to the tax application.

Where a computer system is a given model of a cash register machine, the report of the authorized state body in the sphere of computerization and communications on compliance of the computer system with the technical requirements and documents listed in sub-paragraphs 1), 2), 3), 5), 6) and 7) of this paragraph shall be attached to the tax application. The procedure for issuing reports shall be established by the Government of the Republic of Kazakhstan.

4. The inclusion of a model of cash register machines into the state register shall be carried out by simultaneous observance of the following requirements:

- 1) Tax application and materials specified in paragraph 3 of this Article are present;
- 2) Model of a given cash register machine is in compliance with the technical requirements as established by the authorized body.

5. Compliance of a model of a cash register machine with the technical requirements upon inclusion in the state register shall be decided by the authorized body by way of testing (tests) of a given model of a cash register machine in the presence of representatives of the person who initiated the inclusion of a given model of a cash register machine into the state register. In order to decide the compliance of a given model of a cash register machine with the technical requirements, the authorized body have the right to invite experts of other state authorities, from amongst other persons (except for persons who initiated the inclusion of a given model of a cash register machine into the state register, and persons affiliated with them).

6. A decision on including (denying inclusion) of a given model of a cash register machine into the state register shall be taken by the authorized body within thirty working days from the date of accepting a tax application.

In case of a denial of including a given model of a cash register machine into the state register, the authorized body shall in writing notify the applicant by specifying reasons for such denial.

7. Exclusion of a model of a cash register machine from the state register shall be carried out by the authorized body in the case of noncompliance of specifications of a given model of a cash register machine provided in the documentation presented to the authorized body at the time of inclusion in the state register with the technical requirements. The tax authority shall notify the taxpayer who uses a given model of a cash register machine of the decision to exclude a given model of a cash register machine from the state register, no later than six months prior to the exclusion a given model of a cash register machine from the state register.

**Footnote. Article 651 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010), dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012).**

#### **Article 652. The tax supervision of the compliance with the procedure for the use of cash register machines**

The tax authorities shall:

- 1) Exercise the supervision of compliance with the procedure for the application of cash register machines;
- 2) Use information which is kept in fiscal blocks of memory of cash register machines when carrying out tax audits of the implementation by the taxpayers of tax

obligations associated with payment of taxes and other obligatory payments to the budget.

## **Chapter 91. OTHER FORMS OF TAX SUPERVISION**

### **Article 653. The supervision of excisable goods manufactured or imported to the Republic of Kazakhstan**

**Footnote. Title of article 653 is in the wording of the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).**

1. Importers of excisable goods, bankruptcy commissioners and rehabilitation managers when selling estate (assets) of a debtor, of the procedure for marking certain of excisable goods as defined by this Article, transition of excisable goods in the territory of the Republic of Kazakhstan and also by way of establishing excise duty posts.

1-1. Importation (exportation) of excisable goods to the territory (from the territory ) of the Republic of Kazakhstan from the territory (to the territory) of the state - member of the Custom Union shall be performed through the border entry points of the Republic of Kazakhstan in the procedure established by the Government of the Republic of Kazakhstan.

2. Alcoholic products, except for wine materials and beer shall be subject to marking with accounting registration stamps, tobacco products - with excise duty stamps in the procedure established by the Government of the Republic of Kazakhstan.

3. Marking shall be carried out by the manufacturers and importers of excisable goods, bankruptcy commissioners, rehabilitation managers when selling estate (assets) of debtors.

4. The following alcohol products shall not be subject to marking with accounting registration stamps, and tobacco items - with excise duty stamps:

- 1) Those exported beyond the boundaries of the Republic of Kazakhstan;
- 2) Those imported to the territory of the Republic of Kazakhstan by owners of duty free shops subject to the duty-free trade customs procedure;
- 3) Those imported into the customs territory of the Custom Union in the customs procedures for temporary importation (admission) and temporary exportation, including temporary imported to the territory of the Republic of Kazakhstan from the territory of the state-members of the Custom Union for advertising and (or) demonstration purposes of one-off items;
- 4) Cleared through the customs territory of the Custom Union in the custom procedure for custom transit of goods, including the goods in transit through the territory of the Republic of Kazakhstan from the states - members of the Custom Union ;

5) Those imported (sent) to the territory of the Republic of Kazakhstan by an individual who had attained the age of eighteen not more than three liters of alcoholic products and beer, as well as tobacco and tobacco products in the quantity not exceeding 200 cigarettes or 50 cigars (cigarillos) or 250 gram of tobacco or these products in assortment the total weight of which shall not exceed 250 gram.

**Note of the RCLII!**

Paragraph 4.1 shall be enforced from 01.10.2010 (see Article 2 of the Law of the Republic of Kazakhstan 30.06.2010 No. 297-IV).

4-1. Import to the territory of the Republic of Kazakhstan and transportation throughout the territory of the Republic of Kazakhstan of excisable products to be marked with accounting registration stamps are not allowed without appropriate marking, except for the cases provided for by paragraph 4 of this Article.

5. Remarking of excisable goods specified in paragraph 2 of this Article with accounting registration or excise duty stamps of the new, shall be carried out at times specified by the Republic of Kazakhstan Government.

6. In accordance with this Article:

1) The rules for marking (remarking) of certain of excisable goods shall be approved by the Government of the Republic of Kazakhstan;

2) The rules for receiving, accounting, storing and distributing of excise duty stamps and accounting registration stamps shall be approved by the Government of the Republic of Kazakhstan;

3) *Excluded by the Law of the Republic of Kazakhstan dated 09.01.2012 No. 535-IV (shall be enforced from 01.07.2011);*

4) The rules for drafting, ordering, receiving, issuing, accounting, storing and submission of accompanying Footnote on certain of goods shall be approved by the Government of the Republic of Kazakhstan;

5) The procedure for organization of functioning of an excise duty post shall be approved by the Government of the Republic of Kazakhstan.

7. The tax authorities shall establish excisable posts in the territory of the taxpayer who carries out the manufacture of certain of excisable goods.

In certain cases excise posts shall be established in the territory of the taxpayer carrying out transfer of oil and oil products by means of main product pipelines by railways, as well as engaged in whole-sale of the excisable goods specified in sub-paragraphs 2), 4), and 5) of Article 279 of this Code.

8. *Excluded by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (shall be enforced from 01.07.2010).*

9. Location and personnel of an excise duty post, produced for its functioning in accordance with the regime of work of the taxpayer, shall be determined by the tax authority.

Personnel of an excise duty post officers shall be formed out of officials of the tax authority.

10. An official of the tax authority who is at an excise duty post shall exercise control of the following:

1) Compliance by the taxpayer with the requirements of the regulatory legal acts regulating production and marketing of excisable goods;

2) Purchaser who has a licenses for relevants of business;

2-1) registration of imported excisable goods;

3) Measuring and (or) selling excisable goods only through metering devices or marketing (bottling) through metering devices, and the latter to be maintained in a sealed condition;

4) Compliance by the taxpayer with the procedure for marking certians of excisable goods;

4-1) compliance with the rules for drafting of accompanying Footnotes on certians of goods in case of their sale by a taxpayer;

5) Accuracy of application of excise duty rates on excisable goods and timeliness of payment of excise duties to the budget;

6) Movements of main raw materials for the production of excisable goods, accessory materials, finished goods, accounting registration stamps or excise duty stamps.

11. An official of the tax authority who is at an excisable post has the following rights:

1) In compliance with the requirements of current legislation of the Republic of Kazakhstan, inspect administrative, industrial, warehouse, commercial, accessory premises of the taxpayer (tax agent), which are used for production, storage and marketing of excisable goods;

2) Be present when excisable goods are sold;

3) Inspect transport vehicles leaving (entering) the territory of the taxpayer.

12. An official who is at the excise duty post has other rights as specified by the procedure for the organization of functioning of the excise duty post.

13. *Excluded by the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).*

**Footnote. Article 653 as amended by the Law of the Republic of Kazakhstan dated 30.06.2010 No. 297-IV (the order of enforcement see the Article 2) dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012), dated 21.07.2011 No. 467-IV (the order of enforcement see the Article 9), dated 09.01.2012 No. 535-IV (shall be enforced from 01.07.2011).**

**Article 654. The supervision of transfer pricing**

The tax service authorities shall exercise supervision of transfer pricing in relation to transactions, in accordance with the procedure and in the cases provided for by the Republic of Kazakhstan legislation concerning transfer pricing.

**Article 655. The supervision of compliance with the procedure for accounting, storage, valuation, further use and marketing of assets converted (to be converted) into ownership of the state**

1. The tax authority shall exercise supervision of compliance with the procedure for storage, valuation, further use and marketing of assets converted (to be converted) into the ownership of the state, of the fullness and timeliness of receipt of funds to the budget in case of their marketing, and also the procedure for transfer of assets converted (to be converted) into the ownership of the state in accordance with the procedure and within periods established by the Government of the Republic of Kazakhstan.

2. The procedure for accounting, storage, valuation, further use and marketing of assets converted (to be converted) into ownership of the state shall be determined by the Government of the Republic of Kazakhstan.

**Footnote. Article 655 as amended by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012).**

**Article 656. Control over the activities of the authorized state and local agencies**

**Note of the RCLII!**

**This version of paragraph 1 is valid until 01.01.2013, in accordance with the Law of the Republic of Kazakhstan dated 10.12.2008 N 100-IV (for the suspended version see an archived version No. 30 of the Tax Code of the Republic of Kazakhstan).**

1. The tax service bodies shall exercise control over the activity of the authorized governmental and local executive bodies in accordance with the procedure established by this Article.

The control over the activity of the authorized governmental bodies shall be exercised on the questions related to accurate assessment, complete collection and timely transfer of other compulsory payments to the budget, and reliable and timely data provision to the tax authorities.

The control over the activity of the local executive bodies shall be performed with respect to accurate assessment, complete collection and timely transfer of other compulsory payments to the budget, timely provision of reliable data on taxes on property, vehicles, land, and other compulsory payments to the tax authorities.

The control over the activity defined by the local authorities to issue one-off coupons are for:

accuracy of calculation, completeness and timeliness of payment (crediting) the amounts of one-off coupons issued to the budget;

completeness and correctness of filling one-off coupons, spine one-off coupons, keeping the roots of one-off coupons;

reliability and timeliness of information to the tax authorities;

proper accounting issuing one-off coupon.

The control over the activity of the authorized governmental and local executive bodies, as well as bodies appointed by the local executive bodies for issuance of one-off coupons (hereinafter for the purpose of this Article referred to as the "Authorized Governmental Bodies") shall be performed on the basis of decision of the tax service bodies concerning appointment of control (hereinafter referred to as "Decision") in the form established by the competent authority, containing the following details:

- 1) Date and number of the decision registration with the tax service bodies;
- 2) Full name and identification number of the authorized governmental body;
- 3) Substantiation of appointment of the supervision;
- 4) Positions, surnames, names, and patronymics (if any) of the officials of the tax service bodies performing control, and specialists of other governmental bodies being involved in control in accordance with this Article;
- 5) Deadlines for performance of control;
- 6) Period under control;
- 7) Questions related to performance of control;
- 8) Acknowledgment of the authorized governmental body of reading and receipt of the decision.

The decision shall be subject to the state registration with the governmental authority which carries out statistical activities within the scope of their competence in the area of legal statistics and special accounting before the control.

2. The participants of the control shall be officials of the tax service bodies specified in the decision, other persons being engaged in performance of control in accordance with this Article, and authorized governmental bodies.

During the supervision the authorized governmental bodies shall assist to the tax service bodies in obtaining documents and information which are required for the supervision, admission of the officials of the tax service bodies to inspection of the taxation objects.

In that case the supervision of the authorized governmental bodies may be performed with respect to one and several of taxes and other compulsory payments at the same time.



In the event of obstructing in obtaining documents and information or inspection of the taxation objects a report shall be executed on the failure to provide access to the officials of the tax service bodies for the supervision purposes.

The report on failure to provide access to the officials of the tax service bodies for performance of the supervision shall be signed by the officials of the tax service body carrying out control and authorized governmental body. In case of refusal in signing this report the authorized governmental body must provide written explanation of the reason for refusal.

The date of commencement of the supervision shall be the date of receipt of a copy of the decision by the authorized governmental body or the date of the report of refusal of the authorized governmental body to sign the decision.

If the authorized governmental body refuses to sign the copy of the decision, the officer of the supervising tax service body shall draw up a report on refusal to sign with invitation of at least two attesting witnesses. In that case the following shall be specified in the report on refusal to sign:

- 1) Place and date of drawing up;
- 2) Surname, name, and patronymic (if any) of the official of the tax service body who has drawn up the report;
- 3) Surname, name, and patronymic (if any), identification card number, and the address of residence of the invited attesting witnesses;
- 4) Number, date of the decision, name and identification number of the authorized governmental body;
- 5) Circumstance of the refusal to sign the copy of the decision.

The refusal of the authorized governmental body from receipt of the decision shall not serve as a basis for abolition of the tax supervision.

3. The duration of the supervision should not exceed thirty working days from the date of delivery of the decision of appointment of the supervision to the authorized governmental body. The specified period may be extended to fifty working days by the tax service body which has appointed the supervision.

A supervision of the activity of the authorized governmental bodies may not be performed more than once a year.

4. The period of the supervision shall be suspended for periods of time between the date of delivery to the authorized governmental body of the tax service body's request for provision of documents and the date of provision by the authorized governmental body of the documents requested in performance of the control of documents, and between the date of sending the tax service body's request to other territorial tax authorities, governmental bodies, banks and organizations engaged in certain of



banking operations, and other organizations operating in the territory of the Republic of Kazakhstan, and the date of receipt of the information and documents for the specified request.

5. In case of suspension (resumption) of the supervision period the tax service bodies shall send a notice to the authorized governmental bodies with specification of the following details:

- 1) Date and number of registration of the notice of suspension (resumption) of the periods of the control with the tax authority;
- 2) Name of the tax authority;
- 3) Full name and identification number of the competent authority under supervision;
- 4) Date and registration number of the suspended (resumed) order;
- 5) Substantiation of the need for suspension (resumption) of the supervision;
- 6) Mark of the date of delivery and receipt of the notification of suspension (resumption) of the supervision periods.

In the event of extension, suspension of the time, period and/or change in the list of the supervision participants an additional decision to the decision shall be executed in the form established by the competent authority.

6. Upon completion of the supervision an official of the tax service body shall draw up the supervision report with specification of:

- 1) The place of the supervision, date of execution of the supervision report;
- 2) Name of the tax service body;
- 3) Positions, surnames, names, and patronymics (if any) of the officials of the tax service body who carried out the supervision;
- 4) Full name, identification number and address of the authorized governmental body;
- 5) Surnames, names, and patronymics (if any) of the chief officer and officials of the authorized governmental body;
- 6) Positions, surnames, names, and patronymics (if any) of the officials of the authorized governmental body, with the knowledge and in the presence of whom the supervision was carried out;
- 7) Information on the previous supervision and measures taken for elimination of the previously detected violations;
- 8) Results of the completed supervision;
- 9) Positions, surnames, names, and patronymics (if any) of specialists from other governmental bodies who was involved in the supervision.

7. If any violations have been detected as a result of the supervision, the tax service bodies shall render a request for elimination of the violations of the tax legislation of the Republic of Kazakhstan.

The request for elimination of the violations of the tax legislation of the Republic of Kazakhstan (hereinafter "Request") shall be a message sent by the tax service body in hard copy to the authorized governmental body with statement of the need for elimination by the latter of the violations specified in the supervision report. The request form shall be established by the competent authority.

The request shall specify:

Full name of the authorized body;

Identification number;

Reason for sending the request;

Date of sending the request;

The amount to be collected by the authorized governmental body to the budget.

The request must be sent within five working days upon delivery of the supervision report to the chief executive officer (a person substituting the chief executive officer) of the supervised authorized governmental body personally by hand or any other way confirming the fact of sending and receipt.

The request shall be executed by the authorized governmental body within thirty working days from the date of its delivery (receipt).

8. The tax liability amounts found out on the basis of the supervision results shall be collected by the authorized governmental bodies being in charge of accurate assessment, complete collection and timely transfer of taxes and other compulsory payments to the budget.

9. The authorized governmental bodies shall be responsible for accurate assessment , complete collection, and timely transfer of taxes and other compulsory payments to the budget, as well as timely provision of reliable data to the tax authorities in accordance with the laws of the Republic of Kazakhstan.

**Footnote. Article 656 is in the wording of the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.01.2011), as amended by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 01.01.2012).**

## **Chapter 92. ASSISTANCE TO TAXPAYERS**

### **Article 657. Assistance to taxpayers**

The tax service authorities shall render assistance to taxpayers (tax agents) as follows:

- 1) By promotion of tax legislation of the Republic of Kazakhstan;
- 2) By providing software for the presentation of tax reports in an electronic form by forming an electronic payment documents for payment of taxes and other obligatory payments to the budget;

Note of the RCLI!

Suspended till 01.01.2012 by the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV.

3) By building and expanding a network of terminals for the taxpayers (tax agents) access to viewing the progress status of documents requested by the taxpayers (tax agents);

4) By presenting information on the procedure for the performance of settlements with the budget in relation to the implementation of tax obligations;

Note of the RCLI!

Suspended till 01.01.2012 by the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV.

5) Building and expanding the network of centers for work with the notices of the tax service authorities;

6) By supporting the functioning of tax service authorities' web-sites;

Note of the RCLI!

Suspended till 01.01.2012 by the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV.

7) By rendering assistance (except for financial) in the development of the cash machines network and other electronic devices for the payment of taxes and other obligatory payments to the budget, social assessments, transfer of the obligatory pension contributions.

Footnote. Article 657 as amended by the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced from 01.01.2012).

#### **Article 658. Promotion of tax legislation**

1. Promotion of tax legislation of the Republic of Kazakhstan has the objective of enhancing the awareness of taxpayers (tax agents) in tax issues, in particular by way of communicating to them provisions of the tax legislation of the Republic of Kazakhstan, amendments and additions introduced to tax legislation of the Republic of Kazakhstan, and also information on issues relating to the implementation of tax obligations.

2. The tax service authorities shall carry out promotion of tax legislation of the Republic of Kazakhstan by way of holding seminars, sessions, meetings with taxpayers (tax agents), posting information by using mass communication media, information stands, booklets and other printed matter, as well as video, audio and other technical facilities which are used for promotion of information, telephone and cellular communication facilities.

#### **Article 659. Providing free software for the presentation of tax reports in an electronic form**

1. The tax service authority shall provide taxpayers (tax agents) with software on a charge-free basis for presentation of tax reports in an electronic form.

2. Software for presentation of tax reports in an electronic form may be presented to taxpayer (tax agent) on electronic media in case of personal appearance to the tax authority and (or) by way of its posting on the site of the tax service authorities.

3. Software for presentation of tax reports in an electronic form shall be provided by attaching instruction materials for the installation of software.

4. Software shall provide the opportunity of forming electronic payment documents for payment of taxes and other obligatory payments to the budget.

**Footnote. Article 659 is amended by the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced from 01.01.2012).**

**Article 660. Development of a network of outlets for the access for reviewing the status of completion of a document requested by the taxpayer**

1. The tax service authorities shall provide for the development of a network of terminals for furnishing taxpayers (tax agents) with an access to viewing the progress status on requested documents as follows:

1) Certificate on absence (presence) of tax arrears, arrears relating to obligatory pension contributions and social assessments;

2) Statement of the official account on the status of settlements with the budget with regard to performance of tax liabilities.

2. Access to viewing the status of progress of documents requested by taxpayers (tax agents), shall be provided through terminals established at tax service authorities offices.

3. Access to the terminals shall be provided on working days.

**Footnote. Article 660 as amended by the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced from 01.01.2012).**

**Article 661. Providing information on the procedure for the performance of settlements with the budget in relation to the performance of tax obligations**

The tax service authorities shall provide taxpayers (tax agents) with information concerning the procedure for the performance of settlements with the budget with regard to the implementation of tax obligations, including information on the procedure for the completion of payment documents, details which are required for the completion of a payment document.

**Article 662. Centers for processing notices of the tax service authorities**

1. The tax service authorities shall provide for the creation and expansion of the network of centers for processing notices of the tax service authorities, as specified in sub-paragraphs 1) and 5) of paragraph 2 of Article 607 of this Code.

2. Rendering assistance by said centers shall be carried out through dedicated telephone lines, and also directly in the case of taxpayers (tax agents) appearance before the tax authority.

3. Telephone calls to centers for obtaining information shall be carried out on a charge-free basis.

4. Functioning of the centers shall be on the working days.

**Footnote. Article 662 as amended by the Law of the Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced from 01.01.2012).**

#### **Article 663. Maintenance of websites of tax agencies**

1. The tax authorities assist the taxpayer (tax agent) to obtain them free of charge information via websites.

2. Assistance for Execution taxpayer (tax agent) tax liability is by posting on sites of tax authorities of information and guidance.

3. Functioning of websites of tax authorities within 24-hours without holidays and weekends.

#### **Article 664. Assistance (excluding material) in the development of the ATM network and other electronic devices for the payment of taxes and other obligatory payments to the budget, social contributions, transfers of mandatory pension contributions**

1. The tax authorities shall assist (except material) in the development of ATM and other electronic devices, providing the capability to perform the following operations:

1) payment of taxes and other obligatory payments to the budget, social security contributions, the transfer of mandatory pension contributions;

2) Information on the amount of tax payable to the budget;

3) Receipt of a payment document with the details for payment of taxes and other obligatory payments to the budget.

2. Execution of transactions referred to in paragraph 1 of this Article shall be made through ATMs and other electronic devices placed in public places, and has a relationship with the tax authorities, banks and organizations engaged in certain of banking operations.

**Footnote. Article 664 as amended by the Law of Republic of Kazakhstan dated 10.12.2008 No. 100-IV (shall be enforced from 01.01.2012).**

**Article 665. The procedure for dissemination by the tax service authorities of information on assistance which is rendered to tax payers (tax agents) in relation to their performance of tax obligations**

The tax service authorities shall disseminate information concerning the assistance to taxpayers (tax agents) by way of posting information as follows:

- 1) At the tax service offices;
- 2) In mass media.

**SECTION 21. APPEALING THE RESULTS OF TAX INSPECTION AND ACTS (ACT OF OMISSION) OF OFFICE HOLDERS OF THE TAX ADMINISTRATION AGENCIES**  
**Chapter 93. THE PROCEDURE OF APPEALING THE RESULTS OF A TAX AUDIT**

**Article 666. The authorities that consider complaints of taxpayers (tax agents) against notices on the results of tax audits**

1. In accordance with the provisions specified in this Code, the processing of a taxpayer (tax agent) complaint against a notice on the results of a tax audit, shall be carried out by the superior tax service authority.

2. Processing of a taxpayer (tax agent's) complaint against a notice on the results of a tax audit by the officials of the authorized body, shall be carried out directly by the authorized body in accordance with the procedure established by Articles 667-675 of this Code.

3. The taxpayer (tax agent) has the right to appeal a notice on the results of a tax audit to the court.

**Article 667. The procedure for taxpayers' (tax agent's) filing complaints**

1. Taxpayer (tax agent's) complaints against notices on the results of tax audits shall be filed to the superior tax service authority within thirty working days from the date of delivery to the taxpayer (tax agent) of the notice.

In that case a copy complaint must be filed by the taxpayer (tax agent) to the tax service authority that carried out the tax audit.

The date of submission of a complaint to the tax service authority depending on the method of delivery shall be accepted:

- 1) Personally the date of actual receipt of a complaint by the tax service authority;
- 2) By mail the date marked to confirm receipt by a post or another communication service organization.

2. In the case of missing the date due to a sufficient reason, as established by paragraph 1 of this Article, this period pursuant to the petition of the taxpayer (tax

agent's) who is filing the complaint, may be restored by the superior tax service authority that processes the complaint.

3. For the purposes of restoring a missed date for the submission of a complaint, the superior tax service authority shall recognize illness of an individual of whom a tax audit is carried out, and also of the manager and (or) chief accountant (where available) of the taxpayer (tax agent) as a sufficient reason.

Provisions of this paragraph shall apply to individuals of whom a tax audit has been conducted, and also to taxpayers (tax agents) whose organizational structure does not provide for deputies of said persons in case of their absence.

In that respect, the taxpayer (tax agent) must attach a document confirming the fact of illness of persons specified in the first part of this paragraph and a document establishing the organizational structure of such taxpayer (tax agent), to the petition for restoring a missed period for the submission of a complaint.

4. Petitions of taxpayers (tax agents) for restoration of missed periods for filing complaints, shall be satisfied by the superior tax service authority only on the condition , that the taxpayer (tax agent) filed the complaint and the petition no later than ten working days from the date of recovery of the persons specified in paragraph 3 of this Article.

5. A taxpayer (tax agent) who filed a complaint to the superior tax service authority , until a decision is taken on that complaint, may revoke it on the basis of a written application. Revocation of a taxpayer (tax agent's) complaint shall not deprive the taxpayer (tax agent) of the right to file a repeat complaint on the condition of observance of the deadlines established by paragraph 1 of this Article.

A taxpayer (tax agent) shall not be entitled to revoke the complaint during the period from the date of appointment of the specialized audit to the date of making a decision on the complaint.

**Footnote. Article 667 as amended by the Laws of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010); dated 21.07.2011 No. 467 -IV (shall be enforced from 01.01.2012).**

#### **Article 668. The form and contents of a taxpayer's (tax agent) complaint**

1. Complaints of taxpayers (tax agents) shall be filed in writing.
2. A complaint must specify the following:
  - 1) The date of signing a complaint by a taxpayer (tax agent);
  - 2) Name of the superior tax service authority to which the complaint is to be filed;
  - 3) Surname, name and patronymic (where available) or full name of the person filing the complaint, person's place of residence (location);
  - 4) Identification number;
  - 5) Name of the tax authority that carried out the tax audit;



6) Circumstances on which the person filing a complaint bases claims and evidence confirming those circumstances;

7) List of documents attached.

3. Other information may be specified in a complaint, which is substantial for the settlement of a dispute.

4. A complaint shall be signed by the taxpayer (tax agent) or by a taxpayer (tax agent's) representative.

5. The following shall be attached to a complaint:

1) Copy of act and notice;

2) Documents confirming circumstances on which the taxpayer (tax agent) bases claims;

3) Other appropriate documents.

**Footnote. Article 668 as amended by the Law of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (shall be enforced from 01.01.2010).**

#### **Article 669. Refusal to consider a complaint**

1. The superior tax service authority shall deny processing of taxpayers' (tax agents ) complaints in the following cases:

1) Complaint is filed by the taxpayer (tax agent) after missing the period of appeal as established in paragraph 1 of Article 667 of this Code;

2) Non-compliance of the taxpayer (tax agent's) complaint's form and contents with the requirements established by Article 668 of this Code;

3) Filing the taxpayer (tax agent's) complaint by a person who is not that taxpayer (tax agent's) representative;

4) Filing by the taxpayer (tax agent) of a lawsuit application to the court on the issues outlined in the complaint.

2. In cases provided by sub-paragraphs 1), 2) and 3) of paragraph 1 of this Article, the superior tax service authority shall in writing notify the taxpayer (tax agent) of a denial of the complaint processing with specification of reason of such denial, within thirty days from the date of receipt of the complaint.

In case provided by sub-paragraph 4) of paragraph 1 of this Article, the superior tax service authority shall in writing notify the taxpayer (tax agent) of a denial of the complaint processing, within ten days from the date of receipt of the complaint.

3. In cases provided for by sub-paragraphs 1), 2) and 3) of paragraph 1 of this Article, the denial by the superior tax service authority of complaint processing, shall not deprive the taxpayer (tax agent) of the right to file a repeat complaint within the period established by paragraph 1 of Article 667 of this Code, provided violations committed by the taxpayer (tax agent) are eliminated.



In case provided by sub-paragraph 4) of paragraph 1 of this Article, the taxpayer (tax agent) shall not have the right to file a complaint with the superior tax service body.

**Footnote. Article 669 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

**Article 670. The procedure for considering a complaint filed to a superior tax service authority**

1. A motivated decision shall be passed on a taxpayer (tax agent's) complaint within a period not more than thirty working days from the date of registration of such complaint, and in the case of complaints of major taxpayers who are subject to monitoring, - not more than forty-five working days from the date of registration of a complaint, except for the cases specified in paragraph 2 and sub-paragraph 2) of paragraph 6 of this Article.

2. The superior tax service authority when considering a taxpayer (tax agent's) complaint has the right to appoint a specialized audit and a repeat additional audit in accordance with the procedure established by Article 675 of this Code.

3. Period for considering a complaint may be suspended in accordance with the procedure established by Article 672 of this Code.

4. A complaint shall be considered within the scope of issues which are appealed by the taxpayer (tax agent).

5. In case of submission by a taxpayer (tax agent) of documents relating to the consideration of the complaint, which were not presented by the taxpayer (tax agent) in the course of the tax audit, the superior tax service authority has the right to establish the authenticity of such documents during a specialized audit.

6. The superior tax service authority when considering a taxpayer (tax agent's) complaint, where appropriate, has the following rights:

1) To forward requests to the taxpayer (tax agent) and (or) to the tax authority that carried out the tax audit, for presentation in writing of additional information or explanations on issues outlined in the complaint;

2) To forward requests to the state authorities and legal entities with one hundred percent ownership of the state, as well as to the competent authorities of foreign states, on issues which are within the scope of such authorities and legal entities;

3) To hold meetings with the taxpayer (tax agent) on issues outlined in the complaint;

4) To request additional information and (or) explanations on emerging issues from the tax service authority employees who participated in conducting a tax audit.

7. It is prohibited to interfere with the functioning of the superior tax service authority when it exercises its powers relating to complaint processing and influence in any way on the officials participating in the processing of a complaint.

Footnote. Article 670 as amended by the Laws of the Republic of Kazakhstan dated 17.07.2009 N 188-IV (the order of enforcement see Article 2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).

#### **Article 671. Passing a decision on the results of considering a complaint**

1. Upon completion of considering the essence of a complaint, the superior tax service authority shall pass a motivated decision in writing and forward or deliver it to the taxpayer (tax agent), and forward its copy to the tax service authority that carried out the tax audit.

2. Upon results of considering a taxpayer (tax agent's) complaint against a notice on tax audit results, the superior tax service authority shall pass one of the following decisions:

1) Leave the appealed notice on the results of a tax audit without change, and complaint without satisfaction;

2) Repeal the appealed notice on the results of a tax audit in full or in part.

3. In case of partial abolition of an appealed notice upon the results of its consideration, the tax service authority that carried out the tax audit, shall pass a notice on the results of considering the taxpayer (tax agent's) complaint against the results of the tax audit and (or) a decision of the superior tax service authority passed upon the results of considering a complaint against the notice, and forward it to the taxpayer (tax agent) within a period specified in Article 607 of this Code.

A decision of the superior tax service authority passed upon the basis and in accordance with the procedure which are established by this Code, shall be obligatory for the implementation by the tax authorities.

#### **Article 672. Suspension of the period of considering a complaint**

1. The period for considering a complaint shall be suspended in the following cases :

1) Conducting specialized and repeat specialized audits - until their completion;

2) Forwarding requests to state authorities and legal entities with one hundred percent participation of the state, and also to competent authorities of foreign states - until the time of receiving response.

2. The superior tax service authority shall notify the taxpayer (tax agent) in writing of the suspension of considering the complaint by specifying the reasons for such suspension.

Footnote. Article 672 as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 N 188-IV (the order of enforcement see Article 2).

#### **Article 673. The form and contents of the decision of the superior tax service authority**

The following shall be specified in the decision of the superior tax service authority on the results of considering a complaint:

- 1) Date of making a decision;
- 2) Name of the tax service authority handling the complaint of a taxpayer (tax agent);
- 3) Surname, name, patronymic (where available) or full name of the taxpayer (tax agent) who filed the complaint;
- 4) Identification number;
- 5) Brief contents of the appealed notice on the results of the tax audit;
- 6) Essence of the complaint;
- 7) Motivation by reference to the provisions of the legislation of the Republic of Kazakhstan, on which the superior tax service authority relied when passing a decision on the complaint.

**Article 674. Consequences of filing a complaint to the superior tax service authority or court**

1. Filing a complaint by a taxpayer (tax agent) to the superior tax service authority or to the court shall suspend the implementation of the notice on the results of the tax audit, with regard to the appealed part.

2. When filing a complaint to the superior tax service authority, the implementation of the notice on the results of a tax audit with regard to appealed part shall be suspended until a written decision is passed by the superior tax service authority and expiry of the period specified in paragraph 1 of Article 677 of this Code.

If a taxpayer (tax agent) files a claim (an application) to the court, the implementation of the notice on the results of the tax audit with regard to appealed parts shall be suspended from the day of accepting the claim (application) by court for proceedings until the entry into force of the court resolution.

3. In case of abolition of a notice on the results of a tax audit, the tax audit report shall be subject to abolition only with regard to appealed part of the notice on the results of the tax audit.

**Footnote. Article 674 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

**Article 675. The procedure for the appointment and conducting specialized audits**

1. When handling a complaint of a taxpayer (tax agent), if necessary, the superior tax service authority has the right to appoint a specialized audit.

2. A document appointing a specialized audit shall be executed by the superior tax service authority in writing with listing issues to be audited.

In that respect, the conducting a specialized audit may be entrusted to the tax service authority that carried out the tax audit of which the results are appealed, except for the case where a tax audit appealed was carried out by the authorized body.

3. Specialized audits shall be carried out in accordance with the procedure and deadlines as established by this Code. In that respect, a specialized audit must be initiated no later than five working days after the date of receipt by the tax service authority of a document from the superior tax service authority for the performance of such audit.

4. In the case of insufficient clarity or incomplete information, and also emergence of new questions with regard to circumstances and documents that were previously audited in the course of a specialized audit, the superior tax service authority has the right to appoint it again.

5. A decision upon the results of processing a complaint shall be passed subject to the results of a specialized and (or) repeat specialized audit. In that respect, in the case of disagreement of the superior tax service authority with the results of such audits, the superior tax service authority has the right not to take them into account when taking a decision on a complaint; however such disagreement must be motivated.

**Footnote. Article 675 as amended by the Laws of the Republic of Kazakhstan dated 17.07.2009 N 188-IV (the order of enforcement see the Article 2); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

## **Chapter 94. THE PROCEDURE FOR REVISION OF A DECISION BASED ON THE RESULTS OF PROCESSING A TAXPAYER (TAX AGENT) COMPLAINT**

### **Article 676. The body which carries out the revision of decisions based on the results of considering taxpayer's (tax agent) complaints**

In accordance with the provisions specified by this Code, the revision of a decision based upon the results of processing a taxpayer (tax agent's) complaint shall be carried out by the authorized body.

### **Article 677. The procedure for filing a complaint to the authorized body**

1. Complaints to the authorized body shall be filed within thirty working days from the date of receipt by the taxpayer (tax agent) of a decision on the results of processing a complaint, or in case of absence of a decision of the superior tax service authority upon expiry of the period specified in paragraph 1 of Article 670 of this Code.

In that respect, a copy complaint must be forwarded by the taxpayer (tax agent) to the superior tax service authority which handles the complaint of the taxpayer (tax agent).

2. In case of missing the date established by paragraph 1 of this Article, due to sufficient reasons, that date may be restored by the authorized body pursuant to the petition of the taxpayer (tax agent).

3. For the purposes of restoring a missed date for the submission of a complaint, the superior tax service authority shall recognize illness of an individual of whom a tax audit has been carried out, and also a manager and (or) chief accountant (where available) of a taxpayer (tax agent), as sufficient reasons.

Provisions of this paragraph shall apply to individuals and also to taxpayers (tax agents) whose organizational structure does not provide for substitutes of the above-mentioned persons during their absence.

In that respect, the taxpayer (tax agent) must attach to a petition for restoration of a missed date for the submission of a complaint, a document to confirm the fact of illness of the persons specified in the first part of this paragraph, and a document establishing the organizational structure of such taxpayer (tax agent).

4. The petition of a taxpayer (tax agent) for restoration of a missed date for the submission of a complaint, shall be satisfied by the superior tax service authority only on the condition that such taxpayer (tax agent) filed the complaint and the petition no later than ten working days after the date of recovery of the persons specified in paragraph 3 of this Article.

5. Submission of a complaint to the authorized body shall be carried out in accordance with the procedure specified by Article 667 of this Code, subject to provisions of this Article

#### **Article 678. The form and contents of a complaint filed to the authorized body**

1. A complaint to be filed to the authorized body, with regard to its form and contents must comply with the requirements established by Article 668 of this Code.

2. A copy decision of the superior tax service authority that considered the taxpayer's (tax agent's) complaint, must be attached to a complaint to be filed to the authorized body.

#### **Article 679. Denial of a complaint processing**

1. Denial of processing a complaint of a taxpayer (tax agent) shall be carried out by the authorized body in the cases and in accordance with the procedure established by Article 669 of this Code, subject to provisions of this Article.

2. In cases provided by sub-paragraphs 1), 2) and 3) of paragraph 1 of Article 669 of this Code, the denial by the authorized body shall not deprive the taxpayer (tax

agent) of the right to file a repeat complaint within the period established by paragraph 1 of Article 667 of this Code, provided violations committed by the taxpayer (tax agent) are eliminated.

In case provided by sub-paragraph 4) of paragraph 1 of Article 669 of this Code, the taxpayer (tax agent) shall not have the right to file a complaint with the authorized body.

**Footnote. Article 679 as amended by the Law of the Republic of Kazakhstan dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).**

#### **Article 680. The procedure for processing a complaint filed to the authorized body**

1. A complaint filed to the authorized body, submitted in accordance with the procedure established by this Code, shall be processed by the authorized body within a period not more than thirty working days from the date of its registration, and complaints of major taxpayers who are subject to monitoring, not more than forty-five working days from the date of registration, except for the cases specified in paragraph 2 and sub-paragraph 2) of paragraph 6 of Article 670 of this Code.

2. Processing of a complaint by the authorized body shall be carried out in accordance with the procedure specified in Article 670 of this Code, subject to provisions of this Article.

3. It shall be prohibited to interfere with the functioning of the authorized body when it exercises its powers of processing complaints, and to exert any coercion with the officials participating in the processing of complaints.

#### **Article 681. Passing a decision on a complaint filed to the authorized body**

1. Upon considering a complaint with regard to its essence, the authorized body shall pass a motivated decision in writing and pass or deliver it to the taxpayer (tax agent), and forward its copy to the tax authority that processed the taxpayer's (tax agent's) complaint.

2. Upon the results of considering a complaint, the authorized body has the following rights:

- 1) To leave a complaint without satisfaction;
- 2) To abolish the appealed decision of the tax service authority;
- 3) To modify a decision or pass a new decision.

3. A decision of the authorized body passed upon the basis and in accordance with the procedure established by this Code, shall be obligatory for the implementation by the tax authorities.

#### **Article 682. Suspension of the period for processing of a complaint**

Period of processing a complaint which has been filed to the authorized body, shall be suspended in the cases and in accordance with the procedure established by Article 672 of this Code.

**Article 683. The form and contents of the decision of the authorized body**

The following shall be specified in a decision of the authorized body:

- 1) Date of making a decision;
- 2) Surname, name, patronymic (where available), or full business name of the taxpayer (tax agent) who filed the complaint;
- 3) Identification number;
- 4) Brief contents of the appealed decision of the superior tax service authority;
- 5) Essence of the complaint;
- 6) Motivation and conclusions with reference to the provisions of the legislation of the Republic of Kazakhstan.

**Article 684. Consequences of filing a complaint to the authorized body**

1. Filing a complaint to the authorized body shall suspend the implementation of a notice on the results of the tax audit with regard to the appealed part until a written decision is passed.

2. In the case of abolition of notice on the results of a tax audit, the tax audit report shall be subject to abolition only with regard to the appealed parts of the notice on the results of the tax audit

**Article 685. The procedure for the appointment of and conducting a specialized audit**

1. The authorized body when processing a taxpayer's (tax agent's) complaint, if necessary, has the right to appoint a specialized audit.

2. Appointment and conducting a specialized audit shall be carried out in accordance with the procedure established by Article 675 of this Code, subject to provisions of this Article.

3. Conducting a specialized audit by the authorized body may not be entrusted to the tax authority that carried out the tax audit the results of which are appealed, nor to the tax authority that processed the taxpayer's (tax agent's) complaint against the notice on the results of a tax audit.

4. A decision on the complaint filed to the authorized body, shall be made in compliance with the results of a specialized and (or) repeating specialized audits. In that respect, in the case of disagreement of the authorized body with the results of such audits, the authorized body has the right not to recognize them when making a decision upon a complaint, however such disagreement must be motivated.

Footnote. Article 685 as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement see Article 2).

**Chapter 95. The procedure for appealing acts (omission of act) of the officials of the tax service authorities**

**Article 686. The right of appeal**

A taxpayer or taxpayer's authorized representative has the right to appeal the acts (omission) of officials of the tax service authorities to the superior tax service authority or to the court.

**Article 687. The appeal procedure**

Acts (omission) of the officials of tax service authorities shall be appealed in accordance with the procedure specified by the laws of the Republic of Kazakhstan.

**Article 688. The liability of the officials of the tax service authorities for violation of tax legislation of the Republic of Kazakhstan**

Officials of the tax service authorities, who are guilty of violating the tax legislation of the Republic of Kazakhstan, shall be held responsible in accordance with the procedure established by the laws of the Republic of Kazakhstan.

*President of  
the Republic of Kazakhstan N. Nazarbayev*