

Tax & Legal Newsletter

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LAW ON AMENDMENTS AND ADDITIONS TO THE TAX CODE

On 7 December 2015 the President of the Republic of Azerbaijan signed the Law "On Amendments and additions to the Tax Code", which had earlier been approved by the Parliament of the Republic of Azerbaijan on 20 October 2015.

Apart from changes of an editorial nature, below is a summary of key amendments and additions to be effective from 1 January 2016.

New terms and definitions introduced in Article 13 of the Tax Code:

The new terms include a building, trading, public catering, commencement time of construction and installation works.

The term "building" was introduced with an aim to replace articles of the Tax Code containing words "residential construction" (now – "building construction"). Hence, persons engaged in non-residential construction shall also be covered in relevant provisions of the Tax Code.

Tax authorities' additional rights and duties:

The tax authorities' powers were broadened to include:

- a) To apply to a court for restricting temporarily the right to exit the country in respect of an individual taxpayer or a legal entity's head/chief executive/director as a means of ensuring timely payment of tax obligations, including tax debts, interest and assessed financial sanctions.
- b) To control compliance with the rules established by the relevant executive authority for regulation of turnover of excisable commodities in the Republic of Azerbaijan.

Along with that, the tax authorities will be obliged to apply to a court for lifting the said temporary ban on exit from the Republic of Azerbaijan within two days after the grounds, which have caused the said temporary restriction, have been eliminated.

Additional details in receipts printed via cash registers:

According to the amendments made to the Tax Code, the receipts printed via cash registers will have to reflect also an amount of VAT or simplified tax calculated on the sale.

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More severe sanctions for contravening cash payment rules:

The financial sanctions for infraction of cash payment rules have been significantly toughened (*a fivefold increase; now from AZN 2,000 up to AZN 6,000*) towards persons engaged in trading and public catering activities.

Changes in personal income taxation

Previously tax-exempt income obtained by individuals from sport betting games is now subject to a tax withheld at a source of payment at a rate of 10 percent.

Another important change affects payroll calculations: now individuals receiving monthly employment income being below AZN 2,500 (previously below AZN 250), as well as those receiving annual employment income being below AZN 30,000, are entitled to a personal income tax reduction:

- a country-wide minimum subsistence level (for annual employment income – 12 times of a country-wide minimum subsistence level), as established by the relevant law adopted by the Parliament for each calendar year in advance, is subtracted from a particular month's total taxable employment income¹.

In accordance with the Law "On minimum subsistence level for the year 2016" approved by the Parliament on 20 October 2015, a country-wide minimum subsistence level for the year 2016 is [AZN 136](#).

Threshold raised for VAT registration and liquidation of VAT registration

Article 155.1 of the Tax Code, envisaging a threshold for VAT registration, has been amended. Now VAT payers shall be persons² carrying on entrepreneurial activities and whose VATable revenues over any consecutive 12 calendar month period exceed AZN 200,000³, including persons engaged in trading or public catering waiving their right for simplified tax registration, (except for persons stated in Articles 218.4.1 [passenger and cargo transportation using motor vehicles, except for international passenger and cargo transportation], 218.4.2 [operators or sellers of sport betting games], and 218.4.3 [those selling own residential and non-residential property]).

Along with the above mentioned, now persons whose VATable revenues were less than AZN 100,000⁴ over the past full 12 calendar months may apply for liquidation of their VAT registration.

List of VAT exempt supply enlarged. Imports of leasing objects exempted

Now supplies exempt from VAT, pursuant to Article 164 of the Tax Code, also include:

- imports of technical equipment of all types of vehicles, spare parts, weapons and ammunition used for military purposes by the relevant executive authority, imports of technology, equipment and component parts for the purpose of defense-oriented development and production;
- commodities imported by humanitarian organizations duly registered in the Republic of Azerbaijan, as well as imports by other legal entities and individuals, subject to receipt of a consent from the relevant executive authority, for humanitarian aid purposes;

¹ Ref. to Art. 98 of the Tax Code.

² Covers the both legal entities and individuals.

³ In lieu of the previous threshold of AZN 120,000.

⁴ Previously – AZN 60,000.

- commodities imported in connection with gratuitous assistance, including technical assistance, and for charity purposes of countries, governments and international organizations;
- commodities imported by individuals not for production or commercial purposes, in cases and in the manner prescribed by the relevant executive authority;
- equipment and materials imported in connection with export-oriented oil and gas activities (subject to provision of an approved list of such equipment and materials by the relevant executive authority to the customs authorities);
- goods (except for excisable goods) imported to a special economic zone;
- imports of fixed assets being a subject-matter of leasing agreements⁵.

Property tax exemption list expanded

Satellite and other space objects (devices) are now exempt from property tax.

Mining tax rates increased

The rates of mining tax applicable to non-metallic mineral resources have been increased (twice in most cases; four times in relation to sawn stone).

Major changes in application of simplified tax

Persons not registered for VAT purposes and whose taxable revenues have been less than AZN 200,000 over any consecutive 12 months, persons engaged in trading or public catering activities the taxable revenues of which exceed AZN 200,000 over any consecutive 12 months, as well as persons engaged in building construction, have the right to be registered as simplified taxpayers.

The above persons should submit an appropriate tax return or a written notice on waiver of their right for simplified tax registration to the tax authority no later than the 20th of April of each year. If such return or notice is not submitted, then the tax authorities will apply, by default, a method used in the previous year.

The following persons may only be payers of simplified tax:

- Those carrying on a business of passenger and cargo transportation using their own motor vehicles or motor vehicles in their use or engaged in transportation based on an agreement through other persons;
- Operators and sellers of sport betting games;
- **Sellers of residential and non-residential property, except for individuals who sell residential property where they have resided for at least five years⁶.**

Rate of simplified tax for trading and public catering

The rate of simplified tax on revenues received for supply of goods (works, services) and property, as well as on non-operating income, (except in cases where prices are regulated by the relevant authorities) applicable to trading businesses has been set at 6%, and for public catering businesses – 8%.

⁵ This exemption is of particular importance to leasing companies

⁶ Previously individuals who sold their residential property at which they were registered for at least three years (main place of residence) was exempt from tax

Rate of simplified tax for building construction activities and sale of residential and non-residential property

The rate of simplified tax applicable to persons engaged in building construction and to persons selling residential and non-residential property shall be as follows:

- For persons engaged in building construction – AZN 45 per square meter (for both residential and non-residential areas);
- For persons selling residential and non-residential property – AZN 15 per square meter (for both residential and non-residential areas).

The above rates are further to be multiplied by the following coefficients depending on zones (locations) established by the relevant executive authority

Zones # ⁷	Coefficient by territory where the building construction activities have actually been carried out (actual location of the building)
1	4.0
2	3.0
3, 4	2.2
5, 6	1.8
7, 8, 9	1.5
10, 11, 12	1.2

For Ganja, Soumgayit and Khyrdalan cities the coefficient is 1.5; for Absheron region settlements and villages (except for Khyrdalan), Shirvan, Nakhchivan, Lenkeran, Yevlakh, Sheki and Naftalan cities – 1.2; for other regions (cities) and settlements (villages) – 0.5.

- ✓ **In case of sale of non-residential areas of buildings by persons engaged in construction of buildings and owners of non-residential areas, the simplified tax rates mentioned above are multiplied by 1.5.**

Migration Code amended

In accordance with the Law “On changes to the Migration Code” dated 8 December 2015, a citizen’s right to depart from the country can be temporarily restricted in case of existence of a court decision, legally entered into force, on temporary restriction of the taxpayer’s right to leave the country for not executing for failing to pay tax debts, accrued interest on assessed taxes, assessed financial sanctions to the State Budget. Such restriction may now be lifted after another court decision removing the said restriction.

⁷ Borders of zones for Baku are yet to be set by the Cabinet of Ministers of the Republic of Azerbaijan

This restriction shall apply also to foreign citizens and stateless people.

Law on Amendments to the Civil Proceedings Code

In accordance with the Amendments to the Civil Proceedings Code dated 8 December 2015, a new chapter was added in connection with a procedure on the tax authorities' application to court for temporarily restriction of a taxpayer's (individuals and executives of legal entity) rights to depart from the country. A court decision on such application will be issued within 10 days from the date of submission of the application.

Should the grounds, giving rise to temporary restriction of a taxpayer's rights to depart from the country, be lifted/eliminated, the court will issue a decision on removal of restriction within 2 days after the relevant grounds have been lifted.