

# Kazakhstan

## 1. Government requirements

### Registration requirements

State registration in Kazakhstan follows a “one-stop shop” principle: all registration documents must be submitted to a single government authority - the Government for Citizens. Under the law on state registration, the procedure should take from one to five business days. In practice, general registration can take up to one month.

The law prescribes a standard set of documents that must be submitted for the state registration of a company. Having all the right documents is key to a successful registration process. It is essential to ensure that the documents have been duly signed, sealed, notarized and legalized, or apostilled if they were executed abroad; otherwise, the registration process may be considerably delayed.

The state registration fee is currently 6.5 minimum calculation indexes (MCI)<sup>1</sup> (approximately USD43).

Tax registration for individuals working in Kazakhstan also follows a “one-stop shop” principle. Hence, tax registration and social security registration are done at once when an individual receives Individual Identification Number (IIN). All the documents required for IIN obtainment should be submitted to a single government authority, the “Government for Citizens”. It is possible to submit the required documents both online (through an official website of “Government for Citizens”) and in-person. The process of IIN obtainment should take one business day. However, in practice this process may take longer.

### Ongoing compliance requirements

On the basis of the Tax Code, a company is responsible for submitting to the tax authorities quarterly Personal Income Tax (PIT) and social tax reports by the 15th day of the second month following the reporting quarter.

Besides payroll withholding obligations levied imposed on tax agents, a foreign individual may also have a personal tax filing obligation in certain cases.

### PIT

As required by the Tax Code, a tax agent is responsible for withholding and remitting income tax from payments made to resident and nonresident individuals.

Under the withholding mechanism, a tax agent withholds PIT and transfers it to the state budget on a monthly basis by the 25th day of the month following the month in which income was paid.

Special regime exists for shadow payroll in respect of income paid to individuals working in Kazakhstan under a service agreement between individuals' home country employer and a counter party in Kazakhstan.

### Tax rates

The following tax rates are applicable to resident and nonresident individuals depending on the type of income:

1. Employment income received by residents and nonresidents: 10%
2. Capital gains, interest and winnings received by residents: 10%
3. Kazakhstan source dividends received by residents: 5%

4. Capital gains, dividends, interest royalties received by nonresidents: 15%
5. Income received from sources registered in a tax haven: 20%
6. Other (non-employment) income paid to nonresidents: 20%

Income received in foreign currency is converted to the local currency (tenge) at the exchange rate on the day prior to the date when the income is paid.

## **Social tax**

On the basis of the Tax Code, employers pay social tax, but this is an additional direct tax on employers that is not earmarked for the social benefit of employees.

Social tax is assessed on the employer's expenses in the form of employees' income

Social tax exemptions apply, but are not limited, to the following:

- Employees' Social Medical Insurance fund contributions
- Obligatory pension fund contributions

Employers are required to pay social tax at a flat rate of 9.5% of gross income, less income not subject to social tax (e.g., obligatory pension fund contributions). The minimum taxable base for social tax per employee is the Minimum Monthly Salary (MMS) (approximately USD100 in 2021).

Monthly social insurance contributions are deducted from the monthly social tax to be paid to the state budget (see social insurance contributions). Social tax must be remitted to the state budget on a monthly basis by the 25th day of the month following the month of income accrued.

## **Social insurance contributions**

In accordance with the Law of the Republic of Kazakhstan, "On obligatory social insurance", employers pay social insurance contributions at a rate of 3.5% on income paid to employees who are citizens of Kazakhstan, repatriated ethnic Kazakhs, foreigners and stateless persons holding a residence permit in Kazakhstan, or citizens of the Eurasian In accordance with the Law of the Republic of Kazakhstan, "On obligatory social insurance", employers pay social insurance contributions at a rate of 3.5% on income paid to employees who are citizens of Kazakhstan, repatriated ethnic Kazakhs, foreigners and stateless persons holding a residence permit in Kazakhstan, or citizens of the Eurasian

For 2021, income received in excess of 7 MMS (KZT297,500) per month is not subject to social insurance contributions. The minimum monthly tax base for obligatory social insurance contributions per employee is the MMS (approximately USD100 in 2021). If income subject to social insurance contributions is less than the MMS, the monthly base for social insurance contributions per employee should be the MMS.

## **Obligatory social medical insurance**

In accordance with the Law of the Republic of Kazakhstan No. 405-V "On obligatory social medical insurance" (OSMI), employers must make, at their own expense, employer contributions to the Social Medical Insurance Fund on a monthly basis at a rate of 2% of income paid to employees (applicable to Kazakhstan citizens, repatriated ethnic Kazakhs, citizens of the EEU countries and foreign citizens holding Kazakhstan residence permit

In addition to employer contributions, starting from 2020, employer, being a tax agent, should withhold and remit to the Social Medical Insurance Fund monthly contributions from income of employees (Kazakhstan citizens, repatriated ethnic Kazakhs, citizens of the EEU countries and foreign citizens/stateless persons holding Kazakhstan residence permit) at 2% for 2021 of such employee's income.

For 2021 income subject to employer and employee OSMI contributions is capped at 10 MMS (approximately USD1,000) per month.

An employer may also be responsible for submission of the following non-tax reports:

1. Annual and quarterly statistical reports (Form 1-T) should be submitted to the local department of statistics. Quarterly reports should be submitted by the 10th of the month following the reporting quarter; annual reports should be submitted by 1 February following the reporting year.
2. Form named "Information about demanded professions for the projected jobs" (1-forecast) should be submitted to the local district (city) labor authorities in case of a planned reduction in headcount (e.g., due to the employees reaching retirement age, recruitment into the armed forces and other labor flow reasons). This report should be submitted twice a year, not later than April and October 1st.
3. Form named "Information on the demanded job vacancies and professions" (1-frm) should be submitted to the local district (city) labor authorities in case of vacancies (e.g., due to a need to increase headcount, termination, reduction, retirement, maternity leave). This report should be submitted within three working days from the date a vacancy occurs.
4. Monthly reports on foreign employees who have settled in Kazakhstan should be submitted to the local district (city) labor authorities before the 25th day of the reporting month.

## **2. Pension requirements**

### **Registration requirements**

No additional registration is required for legal entities. With regard to the individuals working in Kazakhstan, an Individual Pension Account should be automatically opened once the first amount of pension contribution is paid to the State Pension Fund.

### **Ongoing compliance requirements**

#### **Pension fund contributions**

in accordance with the Law of the Republic of Kazakhstan "On Pension Coverage in the Republic of Kazakhstan", obligatory pension fund contributions (OPFC) of 10% of the gross salaries of Kazakhstan citizens, foreigners and stateless persons holding Kazakhstan residence permit must be withheld and remitted to the pension fund by employers on a monthly basis.

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Income received in excess of 50 MMS (approximately USD5,000 in 2021) per month is not subject to obligatory pension fund contributions. OPFC are deductible for personal income tax and social tax purposes.

These contributions apply to citizens of Kazakhstan, citizens of the Eurasian Economic Union, as well as to foreigners and stateless persons holding a residence permit in Kazakhstan.

#### **Obligatory professional pension contributions**

For employees in certain professions that involve hazardous working conditions (e.g., mining, oil and gas, pharmaceuticals, and consumer goods manufacturing), employers must also, at their own expense, make obligatory professional pension fund contributions at a flat rate of 5% (without a cap) of employees' gross salaries on a monthly basis.

### 3. Employment obligations

The governing authority on labor issues is the Ministry of Labor and Social Protection of the Population of the Republic of Kazakhstan.

The obligations of the employer are regulated by the Labor Code, collective bargaining agreements, employment agreements and employers' acts, and include the obligations to:

- Pay to the employee the salary and other payments stipulated by the laws and regulations of the Republic of Kazakhstan, the employment agreement and employer's acts, in full and in a timely manner
- Review proposals from the employee's representatives and provide them with complete and accurate information required for the conclusion of a collective bargaining agreement, as well as for monitoring its implementation
- Comply with mandatory prescriptions of state labor inspectors
- Implement mandatory social insurance of employees
- Implement mandatory social insurance of employees
- Provide paid annual vacation to employees
- Keep a record of working time, including overtime work in harmful and hazardous working conditions, and heavy work performed by each employee
- Conduct collection, processing and protection of employees' personal data in accordance with the legislation of the Republic of Kazakhstan

#### Minimum Monthly Salary

Kazakhstan law has an MMS requirement as determined by the Law on the Republic's Budget for the relevant year. For 2021, it is KZT42,500.

#### Working hours and annual vacation

Normal working hours are 40 hours per week.

Resting hours depend on the working regime, but normally should not be less than 12 hours per day.

The minimum paid vacation period under the Labor Code is 24 calendar days (excluding official holidays). Additional vacation days should be provided for employees working in hazardous or harmful conditions.

#### Injury insurance

Kazakh law requires an employer to insure its employees against work-related injury within the first ten days of the month following the month in which the employer began work.

### 4. Payroll requirements

Salary should be paid not less than once a month, within the first 10 days of the following month. The date of payment should be agreed and provided in the employment contract.

Upon payment of salary, the employer should provide employees with payslips containing information about all accruals and deductions in the relevant month.

### 5. Banking requirements related to payroll

Salary and any additional allowances should be set out in the employment contract and paid in local currency, tenge. Bank accounts can be opened with a local bank in Kazakhstan in tenge, with the option of using foreign currency as well.

Kazakhstan legal entities are permitted to hold bank accounts outside of Kazakhstan without restrictions, but they are required to notify the National Bank of Kazakhstan within 30 calendar days after an agreement is concluded with a foreign bank and to file regular statutory reporting.

In practice, payment of some payroll taxes and contributions cannot be processed from foreign bank accounts. Therefore, it is recommended to open accounts with Kazakhstani banks.