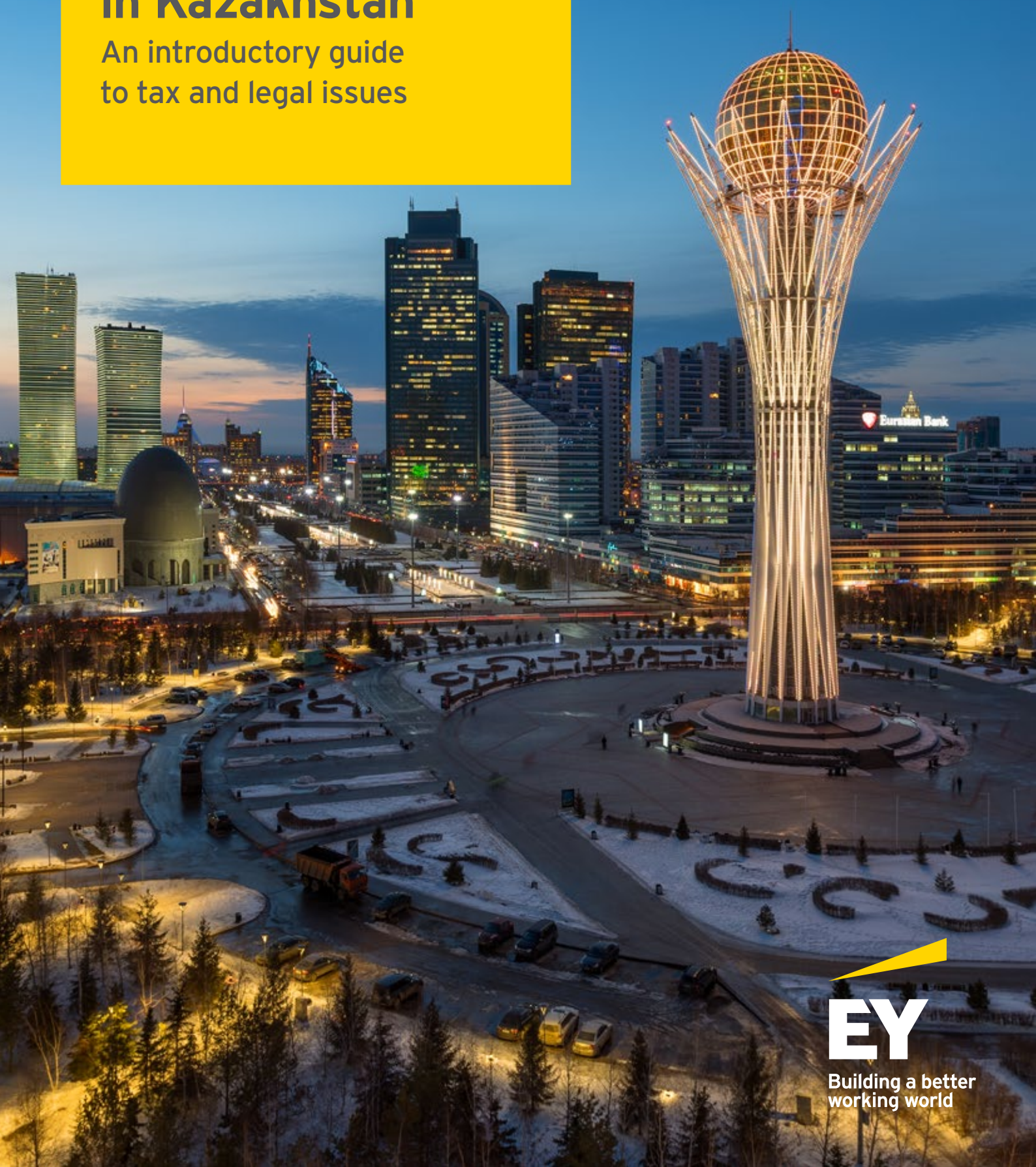


# Doing business in Kazakhstan

An introductory guide  
to tax and legal issues



**EY**

Building a better  
working world



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# Preface

This booklet is intended to provide useful practical advice on the legal and tax issues that face investors starting and building a business in Kazakhstan. In particular, we hope that it will help investors to avoid common pitfalls and clarify areas where some forethought and planning will help problems to be avoided. Kazakhstan offers many opportunities, and encouraging foreign investment in the main sectors of the economy is a key priority for the country.

This guide has five sections:

1. Welcome to Kazakhstan
2. Our top 10 tax and legal tips for prospering in Kazakhstan
3. Getting started
4. An overview of tax rules in Kazakhstan
5. An overview of other laws affecting business administration

This guide is a highly summarized version of the rules in force as of 1 January 2016. It is not a substitute for comprehensive professional advice, which should be sought before engaging in any significant transaction. It should also be noted that this guide does not cover all taxes in Kazakhstan (of which there are more than 30). Here, we cover only the most important, so advice should be sought as to the actual taxes applicable to any particular business.

We wish you every success in this exciting and dynamic environment.

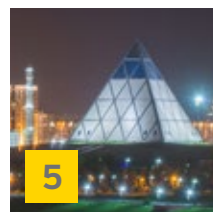
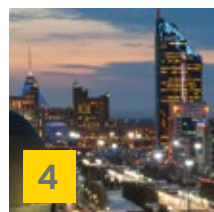
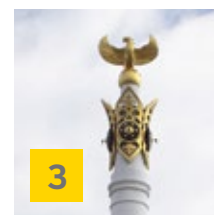
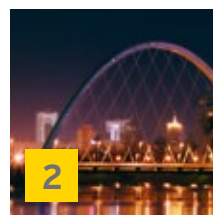
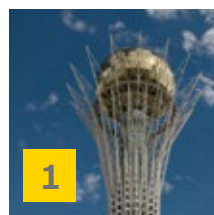




Photo: The Bayterek monument  
and observation tower,  
Astana, Kazakhstan

# Welcome to Kazakhstan

## Highlights

- ▶ Kazakhstan posted an annual average GDP growth rate of 6.5% from 2003 to 2015, with GDP in 2015 reaching US\$189.6 billion (US\$10,830 per capita). In 2015, gross domestic product (GDP) growth was 1.2%.<sup>1</sup> In November 2015, the Ministry of Economy and Budget Planning of Kazakhstan announced an updated GDP forecast for 2016 to 2020, which foresees an average growth rate of 2.1% to 3.6% in the medium term.<sup>2</sup>
- ▶ Foreign direct investment (FDI) inflows into Kazakhstan have been strong in recent decades. Kazakhstan's success in attracting FDI can be attributed to its vast natural resources and the commitment of the country's leadership to welcome FDI and promote the country's stable economic growth, as well as to develop non-extractive sectors such as agriculture, renewable energy, infrastructure, logistics and transport, among others.
- ▶ Kazakhstan is ranked 41st in the Ease of Doing Business rating, according to the World Bank's *Doing Business 2016* report. The country moved up 12 positions since the year before.<sup>3</sup>
- ▶ On 1 January 2015, the Treaty on the Eurasian Economic Union (EAEU) entered into force. The union of Armenia, Belarus, Kazakhstan, Kyrgyzstan and Russia comprises a market of 180 million consumers.
- ▶ In December 2012, the President of Kazakhstan, Nursultan Nazarbayev, in his annual address to the nation, unveiled the program Kazakhstan 2050, the main objective of which is to make Kazakhstan one of the world's 30 most developed countries. This strategy is to be realized through a number of key initiatives: a comprehensive and pragmatic economic policy (a new approach to infrastructure development, modernization of the system of management of state-owned assets, natural resource management, accelerated industrialization, agriculture and water resources), development of a culture of entrepreneurship, a new social policy, improved knowledge and professional competencies, further strengthening of the state and democracy, a consistent and predictable external policy, and enhanced national patriotism.
- ▶ The new economic policy, Nurly Zhol (Shining Path), was launched in November 2014. Its core goal is to create an efficient transport and logistics infrastructure in Kazakhstan, in particular:
  - ▶ Eleven highway engineering projects involving the construction and renovation of more than 7,000 km of roads by 2020 with investments of KZT2.4 billion
  - ▶ 2,787 km of the Kazakhstan segment of the international transit motorway corridor Western Europe–Western China will be completed in 2016
  - ▶ Radial highways will connect Astana with newly created large logistics centers and regional transport hubs
  - ▶ Renovation of the country's only seaport, Aktau, on the Caspian Sea will increase the port's capacity from 16.5 million to 19 million metric tons

<sup>1</sup> The Agency of Statistics of Kazakhstan.

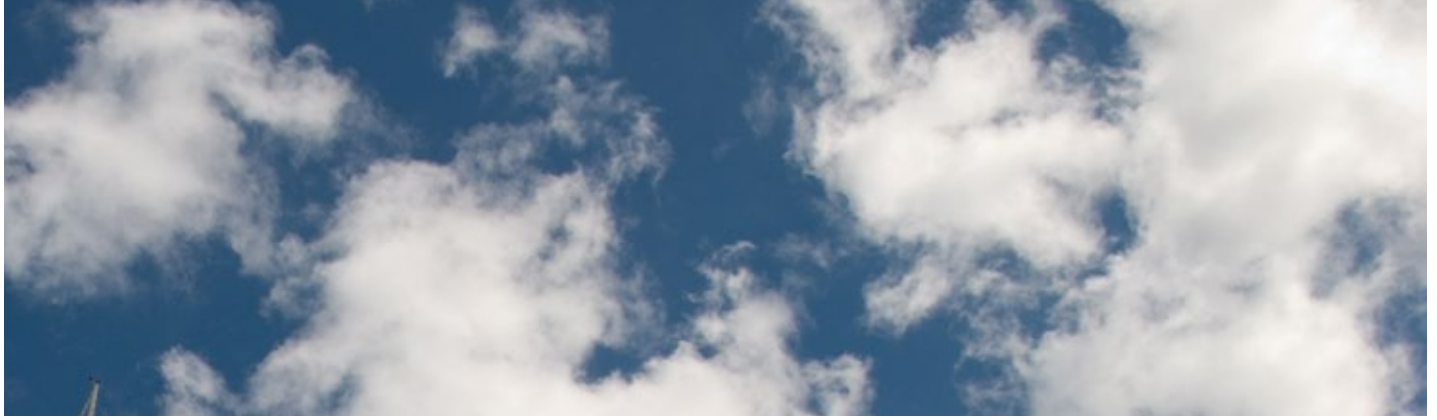
<sup>2</sup> The Ministry of National Economy of Kazakhstan.

<sup>3</sup> *Doing Business 2016*, the World Bank, October 2015.





- ▶ In 2015, planned investments related to Nurlı Zhol totaled KZT81 billion from the National Fund and KZT4.8 billion from the state budget.
- ▶ In line with the strategy Kazakhstan 2050, 100 specific steps were set out by President Nursultan Nazarbayev on June 2015 for the implementation of five institutional reforms to promote a modern and professional civil service, rule of law, industrialization and economic growth, a unified nation, and transparency and accountability of the state.
- ▶ The first wave of privatization laid the foundations of a market economy in the 1990s. The current wave of privatization, which began in 2014, is designed to diversify the economy and develop new industries in the private sector; to improve the level of corporate governance and companies' transparency and efficiency; to confirm technology transfer and capital for companies' development; and to encourage the development of small and medium-sized businesses and the development of Kazakhstan's stock market. Thirty-seven assets were sold in 2014-15. The total revenue of KZT49.9 billion was 5.5% more than the starting price.
- ▶ On 30 November 2015, the World Trade Organization (WTO) welcomed Kazakhstan as its 162nd member. The Republic of Kazakhstan has succeeded in negotiating its positions on the most sensitive economic issues, including support for agriculture, financial services and telecommunications, and has coordinated WTO and the Eurasian Economic Community (EAEC) requirements on the basis of national interests.
- ▶ The New Silk Road is an ambitious transport infrastructure project that will allow goods to be delivered from the Pacific coast to Europe. It is not an easy task to redirect cargo traffic to the mainland, as the current sea route is significantly cheaper. However, the new overland route through Kazakhstan allows delivery time to be reduced from 40-60 days to 13-14 days. A railway corridor connecting the Pacific coast of China to the Caspian Sea is already in operation. It will provide access to many major markets when integrated with the Kazakhstan-Turkmenistan-Iran and Azerbaijan-Georgia-Turkey railway systems. Freight turnover in this area could exceed 40,000 containers by the end of 2015.
- ▶ The international specialized exhibition EXPO-2017 "Future Energy" will be held in Astana from 10 June to 10 September 2017. One hundred countries, at least 10 international organizations and 10 leading innovative technology firms are expected to participate. More than two million visitors are expected. Two hundred and thirty two local companies are taking part in the construction of the EXPO-2017 facilities, with total contracts worth over KZT31 billion. Initial construction work has been completed on all pavilions in the exhibition complex. Installation and engineering work are in progress on the construction site.
- ▶ Astana International Financial Center will be based on the infrastructure of EXPO-2017. It will have a clearly defined territory, its own executive authority and an independent court. The foundation act was signed in 2015. The center will have a special legal regime, differing from the legislation of Kazakhstan and based on the principles of English law and best practice of world-leading financial centers. The participants will enjoy special tax, currency and visa regimes, as well as a framework for attracting foreign labor. The tax regime will offer a 50-year tax exemption and personal income tax exemptions for foreign employees. Kazakhstan's National Bank will allocate KZT6 billion to create the Center.
- ▶ The special economic zone (SEZ) Khorgos-Eastern Gate includes a dry port, a logistics and industrial zone, a railway station and the Altynkol Kazakh-Chinese Khorgos International Centre of Boundary Cooperation. In July 2015, the country's first dry port, with an area of 149 hectares and planned capacity of 500,000 twenty-foot equivalent units (TEU), was launched in the SEZ. The project will cost KZT40 billion. China plans to invest up to US\$600 million in Horgos over five years.



## Governance structure

The Republic of Kazakhstan gained its independence on 16 December 1991. Under the constitution adopted on 30 August 1995, Kazakhstan is a democratic, secular, legal and social state. State power is divided between legislative, executive and judicial authorities. Kazakhstan is a unitary state with presidential rule.

Legislative functions are performed by the Parliament of Kazakhstan, which is the supreme representative body and consists of two chambers, the Senate and the Majilis. The Government of Kazakhstan acts as the supreme executive body, headed by the Prime Minister. Judicial authority is vested in the Supreme Court.

## Time

Kazakhstan's time zones progress from five hours ahead of Greenwich Mean Time (GMT) in the western part of the country to six hours ahead of GMT in the other regions. Astana and Almaty are six hours ahead of GMT.

## Business hours

Kazakh offices are generally open from 9:00 am to 6:00 pm Monday to Friday, and closed Saturdays and Sundays.

## Public holidays and days off

The following table presents Kazakhstan's official public holidays and days off.

Holiday	Date
New Year's holidays	1-2 January
Orthodox Christmas	7 January
International Women's Day	8 March
Nauryz Meyrami	21-23 March
Kazakhstan People's Unity Day	1 May
Defender of the Fatherland Day	7 May
Victory Day	9 May
Capital Day	6 July
Constitution Day	30 August
The first day of Kurban-ait	12 September (observed in accordance with the Islamic Calendar)
The First President of Kazakhstan Day	1 December
Independence Day	16-17 December

## Time differences between Astana and selected cities during winter hours



**Land area:**  
2.7 million km<sup>2</sup>

**Population:**  
17.6 million

**GDP composition  
by sector:**

4.8%      26.2%  
Agriculture      Industry  
56.5%  
Services

**Nominal GDP:**  
US\$189.6 billion

**GDP growth:**  
1.2%

## Kazakhstan fact sheet

Capital	Astana
Administration	Kazakhstan is divided into 14 provinces and 2 cities of national significance: Astana and Almaty
Bordering countries	Russia, Uzbekistan, China, Kyrgyzstan and Turkmenistan
Land area	2,724,900 km <sup>2</sup>
Population (December 2015)	17.6 million
Urban population, % (December 2015)	57% of the total population
Age structure (2015)	0-15 years (27.8%); 16-62 years (61.6%); 63 and above (10.6%)
Languages	Kazakh (official language), Russian (interethnic communication)
President	Nursultan Abishuly Nazarbayev (since 24 April 1990)
Prime Minister	Karim Kazhimkanovich Massimov (since 2 April 2014)
Nominal GDP (2015 estimation)	US\$189.6 billion
GDP growth (2015 estimation)	1.2%
GDP per capita PPP (2015 estimation)	US\$10,830
GDP composition by sector (2014)	Agriculture (4.8%); industry (26.2%); services (56.5%)
Public debt as a percentage of GDP (Q3 2015)	34.4%
Labor force (March 2015)	9.078 million
Unemployment rate (November 2015)	5%
CPI inflation (December 2015)	13.6%
Stock exchange	Kazakhstan Stock Exchange (KASE)
Central Bank	National Bank of Kazakhstan
Corporate income tax rate	20%
Individual income tax rate	10%
State value-added tax	12%
Major cities	Astana, Almaty, Karaganda, Shymkent, Atyrau, and Aktau
Currency unit	Kazakhstan tenge (KZT)
Annual average exchange rate (2015)	US\$1=KZT221.73; €1=KZT245.80; RUR1=KZT3.61; CNY1=KZT35.20
Exchange rate as of 1 January 2016 <sup>4</sup>	US\$1=KZT340.01; €1=KZT371.46; RUR1=KZT4.61; CNY1=KZT52.37

Sources: Official site of the President of the Republic of Kazakhstan; the National Bank of Kazakhstan; the Agency on Statistics of Kazakhstan.

<sup>4</sup> In this guide, all further calculations in US\$ are made based on the exchange rate as of 1 January 2016.





The Bayterek monument and observation tower at the heart of Astana, Kazakhstan

# Our top 10 tax and legal tips

In this section, we set out the top tax and legal tips that investors should be aware of.

## Tax tips

1. Tax laws in Kazakhstan have changed frequently in recent years. It is therefore important that tax planning be robust, i.e., so it can cope with changes in tax law and be restructured without significant tax costs.
2. Corporate and individual income tax rates in Kazakhstan are low by international standards, but penalties for nonpayment and non-reporting, whether intentional or not, are high. The first focus of tax planning in Kazakhstan should be to confirm that all tax that ought to be paid in Kazakhstan is paid and reported. In addition, Kazakhstan is a documentation-driven country, and keeping documentation in order (including support documentation) is of paramount importance.
3. The scope of withholding taxes (WHTs) on cross-border payments is wide, and rates are high (sometimes even when the recipient has never entered Kazakhstan). However, Kazakhstan has concluded tax treaties with many countries, and it is possible that withholding taxes can be reduced or avoided in transactions with treaty countries if the taxpayer has all the necessary documentation in place. Otherwise, tax will be withheld, and obtaining a refund may be a complex and time consuming process with an uncertain outcome. Moreover, Kazakhstan has a unique position in regard to transfer pricing: control potentially applies to all cross-border transactions, regardless of whether the parties are in any way related.
4. There are many downsides to dealing with tax havens when structuring cross-border investments or transactions in Kazakhstan. Thus, tax havens should not usually form part of tax planning in Kazakhstan.
5. The rules for determining whether a business dealing with Kazakhstan has a taxable presence for corporate income tax (CIT) purposes in Kazakhstan (a permanent establishment) are very broad and can apply collectively to whole groups of companies if they have been in the country for over six months. Some, but not all, of Kazakhstan's tax treaties protect against this. Therefore, if more than one group entity is used to do business with Kazakhstan, the position of all entities involved must be reviewed collectively.
6. The rules for determining whether there is a taxable presence for VAT purposes are independent of the rules for CIT, and the penalties for violations can be draconian. Never forget to consider VAT separately when thinking about whether you have a taxable presence in Kazakhstan.
7. For financing investments, there is a basic 4:1 debt-to-equity ratio (7:1 for banks). An investor will, at best, pay 10% WHT on cross-border interest (under a double tax treaty) and get a CIT deduction of 20%, while on certain borrowings, accrued interest expense may be deducted only when paid. Furthermore, exchange gains and losses on loans are recognized for tax purposes.
8. There is a safe harbor that allows an entity that second staff to Kazakhstan to avoid a taxable presence. Provided the arrangements are properly structured, this is likely to be more tax-efficient than using the same staff to provide consultancy or other services.
9. Branch profit tax applies to all permanent establishments of foreign legal entities at a general rate of 15%. It is usually reduced by tax treaties. There is an equivalent tax on dividends at the same general rate, which is also reduced by treaties. In the case of dividends, the rate is zero after an investment has been held for three years (except for investments in oil and gas or mining, dividends paid to tax haven registered entities and investments in certain CIT-exempt entities).
10. An exemption from capital gains tax may, in many cases, be obtained upon withdrawal from an investment in Kazakhstan, provided that the correct structuring is used when the investment is first made. How complex the structuring is depends on the nature of the asset.





Photo: Bridge over the Esil river, Astana, Kazakhstan

## Legal tips

1. Most investors use a Kazakhstan limited liability partnership (LLP) as their investment vehicle.
2. Settlements between residents of Kazakhstan (Kazakh legal entities and citizens) must be made in KZT. Settlements between nonresidents (foreign legal entities and citizens) and Kazakh residents may generally be made in any currency.
3. The range of business and professional activities that require licensing is very broad, and it is important for investors to determine whether they need a license beforehand. The penalties for not having licenses can be significant.
4. Obtaining work permits is a rather complex process, so it is important to plan this process well in advance.
5. A “brass plate” legal address is not sufficient in practice. The authorities will expect an investor to have some presence at its registered legal address in Kazakhstan.
6. Kazakhstan is very formalistic in many respects. In most cases, a company’s representatives should have a power of attorney and will regularly be required to refer to it – for example, when signing contracts.
7. Local content is very important for mining and oil and gas companies and their subcontractors, and is constantly being monitored by the state authorities.
8. Kazakh is the state language of Kazakhstan. Russian is an official language and may be used on an equal footing with Kazakh. In addition, transactions must be “expressed” in the Kazakh language. English is not normally recognized as an official language. Thus, English documents will normally have to be translated into Kazakh (and, in certain instances, into Russian), and the translations must be certified. The only exception to this rule is the recently established Astana International Financial Center (AIFC), where the official language of acts, judicial proceedings, participants’ internal documentation and contracts is English.
9. For commercial contracts, Kazakhstan generally permits foreign law to be the governing law, except for subsoil use contracts with the state, foundation agreements of a Kazakhstan legal entity and agreements on the transfer of participation shares in a legal entity. In addition, it is specifically provided that the AIFC’s acts governing relations between AIFC participants may be based on the “principles, norms and cases” of the law of England and Wales and standards of international financial centers.
10. International arbitration is not usually available for contracts between Kazakhstan legal entities. Disputes between Kazakhstan legal entities are resolved either by the courts or by local arbitration. At the same time, local AIFC participants have access to the AIFC’s own international arbitration center, whose decisions are expected to be recognized and enforced similarly to the decisions of arbitration courts in Kazakhstan. Rules applying to the AIFC’s own international arbitration center have not yet been adopted.

Should you need more information on any of these issues, EY is happy to assist you in the following areas:

- ▶ Tax planning and compliance, both in Kazakhstan and internationally
- ▶ Business accounting
- ▶ A full range of legal consultancy services in Kazakhstan, as well as tax litigation services
- ▶ Transaction advisory services, and legal and tax due diligence
- ▶ Migration support and performance and reward planning
- ▶ Assurance services



Photo: The Kazakh Eli monument,  
Astana, Kazakhstan



# Getting started

## Arriving in Kazakhstan

Citizens of most foreign countries will need a visa to visit Kazakhstan. Each type of visa has certain categories (e.g., a business visa has categories from D1 to D8, depending on the purpose of the business trip).

On 26 June 2015, the Government of Kazakhstan issued a resolution expanding the number of countries included in a trial visa-free regime and extended that regime until 31 December 2017. The list now includes the following 19 countries:

Australia	Netherlands
Belgium	Norway
Finland	Singapore
France	Spain
Germany	Sweden
Hungary	Switzerland
Italy	United Arab Emirates
Japan	United Kingdom
Malaysia	United States of America
Monaco	

During this period, citizens of these 19 countries who have passports, or the equivalent documents, will be able to enter and leave Kazakhstan multiple times without a visa and stay for up to 15 calendar days. If the period of their stay exceeds this, the respective Kazakhstan visa should be applied for.

Passports should be valid for at least three months after the visa expiration date.

The most popular visas are investor, business and work visas. They are issued for one, two, three or multiple entries, depending on their categories, and are valid for up to three years.

Investor visas are issued to management of foreign companies that carry out investment activities in Kazakhstan, as well as to their family members.

Work visas are issued to foreign individuals arriving in Kazakhstan for employment, as well as to non-working members of their families. A work permit should be submitted to the Kazakhstan foreign affairs authorities in order to obtain a work visa. See the "Work permits" section for details.

Business visas are issued to foreign individuals arriving in Kazakhstan for business purposes (e.g., a business trip, negotiations, to enter into contracts, provide consultancy or audit services, attend conferences, symposiums, forums, exhibitions and concerts, as well as cultural, scientific, sports and other events).

Visas are issued in Kazakhstan by the Consular Service Department of the Kazakhstan Ministry of Foreign Affairs (MFA) and, abroad, by Kazakhstan consulates (e.g., the Consular Department of the Embassy of Kazakhstan). Generally, visas are issued based on a letter of invitation by a local Kazakh company, or a branch or representative office of a foreign company, submitted to the Consular Service Department of the Kazakhstan MFA. The fee for a visa ranges from US\$1 to US\$600, depending on the invited person's country of residence and the type of visa sought. Visas should be issued within five working days.

A letter of invitation is not required for a single-entry diplomatic, official, business or private visa in certain categories, or for a single- or double-entry tourist visa for citizens of 48 countries, including Austria, Belgium, UK, Greece, Italy, France, Singapore and the United States. This type of visa is issued based on a written application submitted by a foreign individual to the Kazakh consular establishment in the respective country or to the Consular Service Department of the Kazakhstan MFA.

The registration of foreign nationals arriving in Kazakhstan is recorded on their migration card, except for those arriving under investor visas, whose registration is recorded in their passports. Depending on the visa category and the grounds for its issuance, registration is handled by the Kazakh consulates when a visa is issued, by the border control authority when a foreign national crosses the border, or by the migration police within five days after the arrival of a foreign national.

Should you require assistance in planning and managing your human capital needs, EY can assist with obtaining work permits for foreign employees, tax registration, tax and legal compliance for expatriate individuals, and drafting secondment agreements.



## Types of legal entities

Under the Civil Code<sup>5</sup>, foreign and local investors may use a number of organizational and legal forms to do business in Kazakhstan, including general partnerships, LLPs, partnerships with additional liability, commandite partnerships and joint stock companies (corporations), as well as representative and branch offices.

In this section, we expand on the four types of business vehicles that are most widely used in practice.

### Joint stock companies (JSCs)

A JSC is a legal entity that is separate and distinct from its shareholders, i.e., shareholders are not liable for JSC's liabilities. It may have one or more shareholders. The minimum capital required for a JSC is 50,000 times the monthly calculation index (MCI)<sup>6</sup> (approximately US\$300,000).

### Limited liability partnerships (LLPs)

The main difference between the two entities is that an LLP does not issue shares; instead, participants have interests in the partnership. An LLP may be formed by one or more participants. Generally, the participants of an LLP are not liable for the LLP's debts beyond the value of their contributions. The Civil Code envisages a number of exceptions to this rule.

The minimum capital requirement for an LLP is 100 times the MCI (approximately US\$600), with the exception of small businesses, for which the minimum is set at zero. Participants' interests are proportional to their contributions to the charter capital unless the foundation documents provide otherwise. Participants have preemptive rights to each other's interests.

Importantly, LLPs in Kazakhstan are separate legal entities that are distinct from their participants. As a legal entity, an LLP is subject to state registration and taxation in its own right; i.e., it is not tax-transparent.

### Representative office

Kazakh law allows a foreign company to establish a representative office in Kazakhstan to represent its interests in Kazakhstan. A representative office protects and represents the interests of a foreign legal entity and carries out preparatory and auxiliary activities, such as marketing and advertising. Generally, a representative office may not conduct commercial activity. A representative office is not recognized as a separate legal entity.

### Branch

A branch is a structural subdivision of a foreign legal entity that performs all or part of the foreign entity's functions and, in particular, can carry on commercial activity. A branch is not considered to be a legal entity separate from its foreign parent company (head office).

Should you require more information on the nature and uses of various business entities in Kazakhstan, EY offers tax and legal advice on how to structure a business there as well as the full range of legal formation and registration services.

<sup>5</sup> The Civil Code of the Republic of Kazakhstan of 27 December 1994 (as amended on 17 July 2015).

<sup>6</sup> The MCI was established by the Law of the Republic of Kazakhstan "On the Republic's Budget for 2015–2017." Effective 1 January 2016, the MCI is KZT2,121 (approximately US\$6).





## Establishing a legal presence

As a rule, all legal entities, branches and representative offices in Kazakhstan must be registered with the state.

### State registration

State registration in Kazakhstan follows a “one-stop shop” principle: all registration documents must be submitted to a single government authority, the Public Service Center (TSO). Under the law on state registration, the procedure should take from 1 to 14 business days. In practice, general registration can take up to one month.

Legislation requires that a standard set of documents be submitted to complete an entity's state registration. Having all the right documents is the key to a successful registration process. It is essential to confirm that the documents have been duly signed, sealed, notarized and legalized, or apostilled if they are executed abroad<sup>7</sup>; otherwise, the registration process may be considerably delayed.

The state registration fee is currently 6.5 times the MCI (approximately US\$39).

As soon as state registration has been completed, some entities<sup>8</sup> need to apply to obtain a seal from an authorized local company. This a company may design and produce a seal and register it with the Kazakh state authorities.

### Location (legal address)

A legal entity's location is the address indicated in its foundation (e.g., charter) documents. Under Kazakh law, a legal entity is located in the same place as its operating governing body (i.e., its director or board of directors). The location plays an important part in a legal entity's registration and other legal events, such as determination of the court where an appeal should be filed (usually with a court in the defendant's location) or the state revenue authority to which tax and other payments will be made.

Under Kazakh law, state authorities (in particular, the state revenue authorities) require legal entities, branches and representative offices (“Entities”) to be present at the legal addresses indicated in their foundation documents and the authorities' registration data. The state revenue authorities can visit them at their legal address under the so-called “observation procedure.”

If an Entity is not actually present at the legal address, i.e., the state revenue authorities cannot find anyone representing this Entity at the time of observation, it may be penalized, i.e., it may be de-registered for VAT purposes or its bank accounts may be frozen. Thus, a Branch should actually be at the legal address stipulated in its foundation documents and registration data, or at least confirm that, if the authorities visit (send correspondence or call the contact telephone number), there is someone who can confirm that the Branch is in fact at that legal address.

### Opening a bank account – for companies and individuals

Bank accounts can be opened with a local bank in Kazakhstan in the national currency and/or in a foreign currency.

Branches and representative offices of foreign legal entities may opt to use offshore (foreign) bank accounts.

Kazakh legal entities are permitted to hold bank accounts outside of Kazakhstan without restrictions. All they have to do when opening such an account is to notify the National Bank of Kazakhstan within 30 calendar days after an agreement is concluded with a foreign bank and file statutory reporting.

See the chapters on “Banking regulations” and “Currency regulations” for details.

<sup>7</sup> The legalization and apostille requirement does not apply to documents executed in countries that are parties to respective international treaties.

<sup>8</sup> The requirement that a company have a seal does not apply to legal entities that are private entrepreneurs, except in cases envisaged by law (e.g., when a seal must be affixed to an agreement as an additional condition upon request by one of the parties to the agreement).



### Categories of labor immigrants, permits and secondment issues

The Law of the Republic of Kazakhstan On Migration of the Population, adopted on 22 July 2011, establishes the following categories of immigrants entering the country to perform labor:

- ▶ Foreign employees, i.e., immigrants engaged by employers, including as part of an intracorporate transfer to perform labor in Kazakhstan
- ▶ Business immigrants, i.e., those who conduct entrepreneurial activities under the laws of the Republic of Kazakhstan
- ▶ Seasonal foreign employees, i.e., immigrants engaged by employers to perform seasonal work during a specific period (season) in view of the climate and other natural conditions, but for no more than one year
- ▶ Immigrants who come to Kazakhstan as homeworkers to perform work (render services) for an employer or individual in a household under a labor immigration permit

The law on migration establishes specific conditions for the arrival and stay in Kazakhstan of each of these categories of labor immigrants, including, among other things: (i) verification of financial solvency, allowing them to leave Kazakhstan for their country of permanent residence upon the expiration of their permits; (ii) information on prior convictions; and (iii) medical confirmation allowing them to work in Kazakhstan in a particular area of specialization.

### Work permits

Under Kazakh migration and work permit law, there are two types of permit for labor by foreign nationals in the Republic of Kazakhstan:

- ▶ Permit to engage foreign labor (work permit)
- ▶ Permit issued to a foreign individual arriving in Kazakhstan for individual employment in a certain area of specialization (permit for employment). A list of such specializations is approved by the Government.

A work permit must be obtained by an employer, while a permit for employment must be obtained by the foreign employee. Only one document need be obtained for a foreign employee in Kazakhstan, i.e., either a work permit or a permit for employment. These documents are not required for citizens of Armenia, Belarus, Kyrgyzstan and Russia, having local employment agreement, under the treaty on the EAEU of 29 May 2014, which envisages free movement of labor within EAEU member states.

Pursuant to Kazakhstan entering World Trade Organization ("WTO"), there is a new option to attract the foreign labor force – intra-corporate transfer. It represents a temporary transfer of a foreign individual who is in a position of head, manager or specialist in a legal entity established in the territory of a member country of the WTO outside Kazakhstan to its Kazakhstan branches, subsidiaries or representative offices. The Work Permit under intra-corporate transfer is issued by the local authorities for a transfer period, but no more than for 36 months with a right of one-time extension for a calendar year.

The Work Permits under intra-corporate transfer are issued out of the quota for foreign labor force and apply to certain established economic sectors.

In addition, the above conditions should also apply to a transfer of employees from a foreign company (no reference to WTO) to its affiliated entity in Kazakhstan.

As a general rule, under Kazakh law, an employer hiring a foreign national is required to obtain a work permit for the employee. Under the current laws of the Republic of Kazakhstan, local executive bodies (Akimats) issue work permits. This rule applies to all foreign employees except those who are specifically exempt, such as the heads of branches and representative offices of foreign legal entities and those on business trips, provided they do not exceed a total of 120 days in one calendar year, foreign employees of the companies (employers) participating in the implementation of projects included in the list of the Industrialization Map of Kazakhstan for 2015-2019, and other categories.

The Government sets an annual quota for work permits. Employers submit an application for a quota of work permits for the following year prior to 1 September of the current year. As a rule, the number of available work permits has always been limited, so early application is important. The process of obtaining a work permit is quite lengthy and requires collection of a certain set of documents.





Work permits are usually granted for one year. In order to obtain a work permit, companies, except for those exempt from this requirement (e.g., representative offices of foreign legal entities in Kazakhstan or small businesses), must comply with the required ratio of Kazakhstan local employees to foreign nationals.

Work permits are generally granted with several conditions that are imposed and monitored by the Akimats. These conditions are related to: (1) the technical and professional training of Kazakh citizens for specializations in demand in the local labor market in accordance with a list approved by the authorized body; and (2) the creation of additional jobs for Kazakhstan citizens and other conditions.

Effective from 1 January 2017 the employer engaging foreign labor force will be charged the state duty for issuance/ extension of work permits. The rates are to be determined by Kazakhstan Government.

Penalties for violating immigration rules may include cash fines, administrative arrest and deportation. Moreover, an employer may be held criminally liable for specific violations of work permit rules.

### **Secondment issues**

Secondment of foreign personnel is currently a key topic in Kazakhstan's job market.

The Tax Code provides a safe harbor, allowing a foreign entity (that provides secondees from outside of Kazakhstan) to avoid being taxed in Kazakhstan. This provision requires that certain conditions be met.

Under a secondment, the local host company acts as a tax agent, and is responsible for calculating and reporting personal income tax liabilities for seconded individuals.

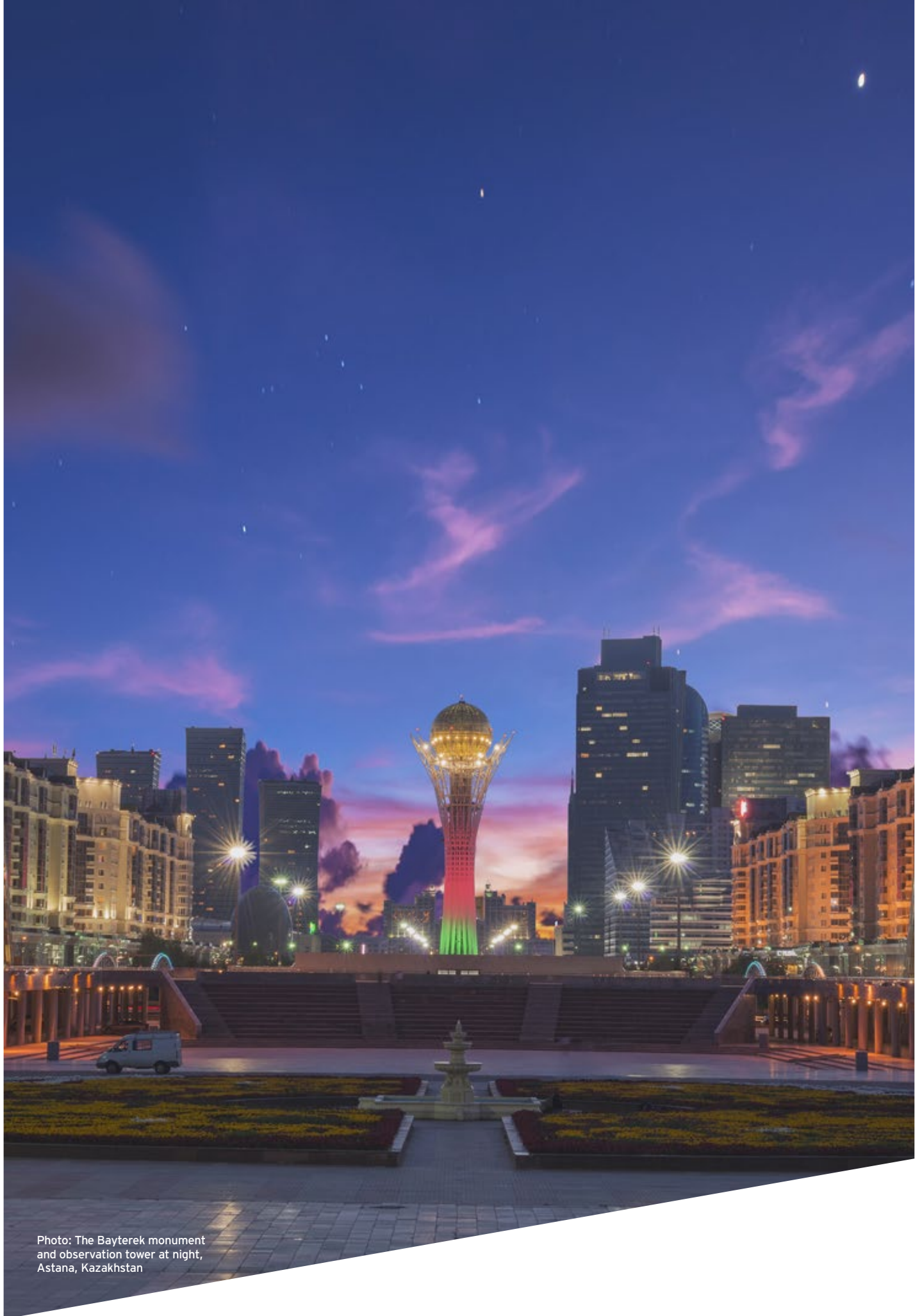


Photo: The Bayterek monument and observation tower at night, Astana, Kazakhstan

# An overview of tax rules in Kazakhstan

We describe the most significant taxes in Kazakhstan in the sections that follow. There are a number of other less significant taxes, such as assets tax, land tax, payments for use of various resources such as radio frequencies, environmental taxes and a number of taxes on “subsurface users,” i.e. oil, gas and mining companies. It is important to perform a thorough review of any proposed business activity to determine the actual taxes that apply to it.

## Individual income tax

Residents and nonresidents of Kazakhstan (who receive income from a Kazakh source) are subject to personal income tax.

### Taxpayers and residency

Residents are taxed on their worldwide income. Nonresidents are taxed on Kazakhstan-source income only, regardless of where it is paid. Income is generally deemed to be from a Kazakh source if it is paid for work performed in Kazakhstan. Kazakhstan-source income also includes, but is not limited to, interest income from residents and nonresidents who have a permanent establishment in Kazakhstan and dividends from resident legal entities.

For tax purposes, foreign nationals are considered residents if they are in the country for 183 or more days in any consecutive 12-month period in the year of residency status identification.

Local individuals are always considered residents of Kazakhstan if their center of vital interests is in Kazakhstan. The center of vital interests is deemed to be in Kazakhstan if all of the following conditions are met:

- ▶ The individual is a citizen of Kazakhstan or has permission to live there (residence permit)
- ▶ The individual's family or close relatives reside in Kazakhstan
- ▶ The individual or members of the individual's family own, or otherwise have at their disposal, immovable property in Kazakhstan permanently available for residence

Double tax treaties<sup>9</sup> may provide different rules for determining residency.

### Taxable income

The taxation of various types of income is described below.

#### Employment income

Income from employment consists of all compensation in cash or in kind, with minor exceptions, regardless of where such income is paid.

#### Self-employment and business income

The income of self-employed individuals (individual entrepreneurs) is subject to income tax.

Tax is levied on an individual's annual business income, which consists of gross income minus expenses incurred in obtaining it. However, in order to deduct expenses, individual entrepreneurs must be specially registered with the state revenue authorities and document the expenses. The tax rates for self-employment income are the same as those applicable to employment income as set forth in the “Rates” section in this document, with the exception of individual entrepreneurs using a simplified taxation regime, advocates and private notaries.

Losses from entrepreneurial activities may be carried forward for up to 10 years to offset taxable income. They may not be carried back.

#### Investment income

Generally, investment income is included in taxable income. Exemptions include, but are not limited to:

- ▶ Interest income on deposits paid to individuals by licensed financial organizations
- ▶ Income from Kazakhstan state securities

The tax rates are set forth in the “Rates” section of the document.

Certain items should not be regarded as income of an individual, including, but not limited to, the following:

- ▶ Business trip per diems within established limits and reimbursement of certain business trip expenses
- ▶ Accommodation and meal expenses within established limits for rotation workers while they are on worksites
- ▶ The amount by which the market value of a stock option exceeds its exercise price when the option is exercised; the exercise price of a stock option is the price fixed in the document that is the basis for granting the stock option to an employee

### Exempt income

Certain items are exempt from income tax, including, but not limited to, the following:

- ▶ Alimony
- ▶ Medical expenses within established limits
- ▶ Dividends and interest on securities that, at the time of the accrual of such dividends and interest, are officially listed on a stock exchange operating in Kazakhstan
- ▶ Dividends received from a resident legal entity when the shares or participating interests have been possessed for more than three years, provided that the legal entity is not CIT exempt and is not a subsurface user (during the period for which dividends are paid), and that at least 50% of the value of the legal entity's assets on the date of payment of the dividends are not assets of a subsurface user

<sup>9</sup> Please see the Appendix for the list of double tax treaties ratified by Kazakhstan.



EY offers help with all aspects of tax compliance for individuals and employers, as well as with payroll processing, and provides tax and legal assistance to high-net-worth individuals.

## Capital gains

Capital gains are subject to tax at the rates set forth in the “Rates” section of the document. Capital gains derived from the open-trade sale of securities listed on a stock exchange operating in Kazakhstan at the date of sale are tax-exempt. Capital gains derived from the sale of shares or participating interests that have been possessed for more than three years are also tax-exempt, provided that the legal entity is not a subsurface user and that at least 50% of the value of the legal entity's or consortium's assets on the date of sale are not assets of a subsurface user.

Capital gains from the disposal of securities purchased by an individual by exercising an option is the positive difference between the selling price and the purchase price. The purchase price should include the price of exercising the option and the option's purchase price.

## Deductions

### Personal deductions and exemptions

An employee's minimum monthly salary (MMS),<sup>10</sup> as determined by the Law on the Republic's Budget and effective on the date of income accrual for the month for which income is calculated, is deductible from the employee's monthly salary. The total amount of the tax deduction for the year should not exceed the total amount of the MMS determined by the Law on the Republic's Budget and effective at the beginning of each month of the current year.

Other deductions include, but are not limited to, the following:

- ▶ Obligatory pension fund contributions
- ▶ Voluntary pension fund contributions
- ▶ Insurance premiums for the individual's own benefit under cumulative insurance agreements

If the amount of the MMS exceeds the amount of the employee's monthly taxable income minus the amount of obligatory pension fund contributions, the excess can be carried over to subsequent months in the calendar year to reduce the employee's taxable income.

If an individual's place of work changes during the tax period, the above does not apply to the individual's new place of work. As a result, the employee may not use the excess amount referred to in the preceding paragraph to offset income earned at his or her new place of work.

## Rates

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

Type of income	Tax rate
1 Employment income of residents and nonresidents	10%
2 Income of advocates and private notaries	10%
3 Capital gains, interest and winnings of residents	10%
4 Dividends received by residents	5%
5 Capital gains, dividends, interest and royalties of nonresidents	15%
6 Income of nonresidents registered in a tax haven	20%
7 Other (non-employment) income paid to nonresidents	20%

Income received in foreign currency is converted to KZT at the exchange rate on the date when the income is received.

## Tax registration of foreign nationals in Kazakhstan

The most common cases in which foreign nationals need to be registered for tax purposes in Kazakhstan are the following:

- ▶ When opening accounts with banks that are tax residents of Kazakhstan
- ▶ When receiving Kazakhstan-source income not taxed at the source of payment in Kazakhstan
- ▶ When becoming a tax resident of Kazakhstan

The place of tax registration is usually the address of residence indicated on the migration card issued to foreigners. There are certain sets of documents to be submitted. Tax registration should take three working days but, in practice, may take up to one week.

## Tax compliance

The tax year in Kazakhstan is the calendar year.

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 personal income tax 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. The tax agent must file a personal income tax and social tax report (which includes pension fund and social insurance contributions) on a quarterly basis by the 15th day of the 2nd month following the reporting quarter.

<sup>10</sup> The MMS was established by the Law of the Republic of Kazakhstan On the Republic's Budget for 2016-2018. Effective 1 January 2016, the MMS is KZT22,859 (approximately US\$67).



If a tax agent is not available in Kazakhstan, resident and nonresident individuals are responsible for calculating their personal income tax liabilities and filing tax returns. The filing deadline is 31 March of the year following the reporting year, and the income tax liability, if any, should be settled within 10 calendar days after the filing deadline.

Kazakhstan tax returns should be filed by the following tax-resident individuals:

- ▶ Individual entrepreneurs
- ▶ Private notaries and advocates
- ▶ Labor immigrants
- ▶ Individuals who receive property income
- ▶ Individuals who receive income not taxed at the source of payment in Kazakhstan, including income outside Kazakhstan
- ▶ Individuals who have funds in foreign bank accounts outside Kazakhstan

Individuals who are not tax residents and whose Kazakhstan-source income is subject to withholding in the country are not required to file a Kazakhstan tax return.

The law imposes late-payment interest and fines for underreporting taxable income, etc.

## Social tax

Kazakhstan does not have social security as it is known in other countries. Employers do 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:

- ▶ Compensation resulting from the liquidation of an organization or termination of the employer's activities, or from reductions in headcount or the number of job positions
- ▶ Compensation paid by an employer to employees for unused vacation
- ▶ Obligatory pension fund contributions

Employers are required to pay social tax at a flat rate of 11% of gross income, minus the obligatory pension fund contributions for Kazakhstan citizens. The minimum taxable base for social tax per employee is the MMS.

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

For individual entrepreneurs (excluding entrepreneurs operating under special tax regimes), private notaries and advocates (attorneys), the rate of social tax is two times the MCI (approximately US\$12) for themselves and one MCI (approximately US\$6) for each employee, if any.

### Pension fund contributions

Obligatory pension fund contributions of 10% of the gross salaries of local employees must be withheld and remitted to the pension fund by employers on a monthly basis. Income received in excess of 75 times the MMS (approximately US\$5,025) per month is not subject to obligatory pension fund contributions.

Obligatory pension fund contributions are deductible for personal income tax and social tax purposes.

For employees in certain professions that involve hazardous working conditions (mainly 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.

Starting from 1 January 2018, obligatory pension fund contributions of the employer should be calculated as 5% of the employee monthly income and paid to the pension fund at the employer expense.

These contributions apply only to citizens of Kazakhstan and to foreigners and stateless persons holding a residence permit in Kazakhstan.

### Social insurance contributions

Employers pay social insurance contributions at a rate of 5% on income paid to employees who are citizens of Kazakhstan and to foreigners and stateless persons holding a residence permit in Kazakhstan. Income in excess of 10 times the MMS (approximately US\$670) is not subject to monthly social insurance contributions. 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.

EY offers the following services in the area of CIT:

- ▶ Help with the tax compliance of legal entities at every step of the process
- ▶ Tax Accounting and Risk Advisory Services
- ▶ Drafting and review of compulsory tax accounting policies
- ▶ A comprehensive tax litigation service, including, where permitted, representation of taxpayers in court

Individual entrepreneurs are also subject to 5% social insurance contributions. This rate is applied to the MMS.

Under the Treaty of the EAEU of 29 May 2014 between the Republic of Belarus, Kazakhstan, the Russian Federation, the Republic of Armenia and Kyrgyzstan, employers who have employment contracts with foreigners who are citizens of member countries of the EAEU must also, at their own expense, make social insurance contributions in the amount of 5% of the gross salaries of the employees, regardless of whether they have a residence permit in Kazakhstan.

#### **Obligatory social medical insurance**

Employers must make monthly employer contributions to the Social Medical Insurance Fund at their own expense calculated based on the following rate:

- ▶ From 1 January 2017 – 2%
- ▶ From 1 January 2018 – 3%
- ▶ From 1 January 2019 – 4%
- ▶ From 1 January 2020 – 5%

Monthly employee contributions must be withheld and remitted to the Social Medical Insurance Fund by employers calculated based on the following rate:

- ▶ From 1 January 2019 – 1%
- ▶ From 1 January 2020 – 2%

## **Corporate income tax (CIT)**

CIT is imposed on the profits of resident legal entities from worldwide sources and Kazakhstan-source income of nonresident legal entities. The basic principles are consistent with those used in most developed economies. However, the required standards of documentary support are particularly high in Kazakhstan.

#### **Payers**

Resident legal entities are taxed on their worldwide income, and nonresidents of Kazakhstan are taxed on their income from Kazakh sources. Nonresidents doing business in Kazakhstan through a permanent establishment (PE) are taxed on the PE's profits, calculated in basically the same way as for residents. Nonresidents that derive Kazakhstan-source income otherwise than through a PE are taxed by withholding (see the "Withholding tax" section on the next page).

#### **Taxable income**

Taxable income is calculated as aggregate annual income (AAI) after certain adjustments minus statutory deductions. AAI includes practically all forms of income, including capital gains. Deductions generally include all business-related and profit-oriented expenses, although

a number of minor exclusions also apply. In addition to normal operating expenses, examples of deductible expenses include interest (up to the thin capitalization limit and the amount actually paid for certain borrowings), foreign exchange losses, representational expenses up to a limit of 1% of taxable payroll and charitable expenses (up to 3% of taxable income). This list is not exhaustive.

Losses from entrepreneurial activities and from the sale of Group I fixed assets (such as buildings and installations other than oil and gas wells and transmitters) are carried forward over the following 10 calendar years inclusively so that they may be offset against taxable income for those years. Capital losses from the sale of securities and other non-depreciable assets can generally be offset against the respective capital gains (with certain exceptions).

#### **Depreciation for tax purposes**

To qualify as a fixed asset for tax purposes, an asset should be defined as such in the entity's IFRS accounts.

For tax depreciation purposes, fixed assets are split into four groups. Assets may be depreciated at any rate (stated in the entity's tax accounting policy) up to the maximum rates indicated in the following table.

Group	Type of fixed asset	Maximum depreciation rate
I	Buildings and structures (except for oil and gas wells and transmission devices)	10%
II	Machinery and equipment (except for machinery and equipment for oil and gas production, computers and data processing equipment)	25%
III	Computers, software and data processing equipment	40%
IV	Fixed assets not included in other groups, including oil and gas wells, transmission devices, and machinery and equipment for oil and gas production	15%





Photo: The multifunctional complex "Nurly Tau", Almaty, Kazakhstan

The following items are not regarded as fixed assets:

- ▶ Land
- ▶ Intangible assets with an indefinite useful life
- ▶ Construction in progress, etc.

Expenses actually incurred for the use, repair, maintenance and liquidation of fixed assets are defined as "subsequent costs", and are generally deductible in the tax period when they are actually incurred (unless capital in nature).

#### Tax rate and compliance

CIT is assessed to companies at the current general rate of 20% of taxable income. In addition, net income (after deduction of CIT) of a nonresident's PE (branch) in Kazakhstan is subject to branch profits tax at a rate of 15%. This is usually reduced by tax treaties.

As a general rule, the tax period is a calendar year. The general CIT declaration deadline is 31 March of the year following the reporting period.

As a rule, all taxpayers (with certain exceptions) are subject to the CIT advance payment procedure, which requires them to estimate their tax liability for the year and pay the tax in monthly installments no later than the 25th day of the current month.

## Withholding tax (WHT) – other than individual income tax

WHT applies to most types of Kazakhstan-source income paid to nonresidents that are not registered for tax purposes in Kazakhstan and even to some who are if due care is not taken. The rules are complex and inconsistent, and there are some instances in which WHT could apply to payments that involve no presence in Kazakhstan. It is vital to have a thorough understanding of how WHT may affect your business. There are also significant administrative requirements that must be met in order to enjoy the benefits of tax treaties.

#### Payers

Tax agents withhold tax from a nonresident's gross Kazakhstan-source income. Any tax-registered entity that pays Kazakhstan-source income is potentially a tax agent.

#### Taxable income

Taxable income includes, but is not limited to:

- ▶ Nonresidents' income from the sale of goods or performance of work or services in Kazakhstan, including income from export sales
- ▶ Income from management, financial (with some exceptions), consultancy, legal (except for representation in court and notary services) and auditing services performed outside of Kazakhstan
- ▶ Any income of tax-haven entities, regardless of where the underlying operations take place

- ▶ Capital gains from sales of shares or interests in Kazakh entities or foreign legal entities that derive most of their value from Kazakhstan
- ▶ Capital gains from sales of Kazakhstan property subject to registration

#### Tax rates and compliance

Types of income	Rate of WHT
Interest, dividends, capital gains and royalties	15%
Insurance premiums under insurance risk agreements	15%
Income from international transportation services and insurance premiums under reinsurance risk agreements	5%
Income of a person registered in a tax haven	20%
Other income	20%

Most of the double tax treaties concluded by Kazakhstan either provide for an exemption from Kazakh WHT or for reduced WHT rates of 5% to 10%, provided that treaty provisions are met. However, these benefits are also subject to the Tax Code's documentation rules. The rules are very specific as to the documentation required, and it is generally recommended that a tax agent possess it at the time payment is made (or at the latest by 31 March of the following year) if treaty relief is to be applied. Otherwise, tax must be withheld in full and a refund claimed subsequently (in practice, claiming refunds is a complex and time-consuming process with an uncertain outcome).



Photo: The Park of the First President of the Republic of Kazakhstan, Almaty, Kazakhstan

WHT is paid by tax agents. The general rules are:

- ▶ For accrued and paid amounts, not later than 25 calendar days following the month when payment was made
- ▶ For amounts accrued but not yet paid, if they are deducted for CIT purposes, not later than 10 calendar days following the submission deadline for CIT returns
- ▶ For prepayments, not later than 25 calendar days after the end of a month in which income was accrued to the nonresident

Under the Tax Code, tax agents should submit a WHT return by the following deadlines: (i) not later than the 15th day of the 2nd month following the quarter when a WHT obligation arose, or (ii) not later than 31 March of the year following the tax period in which accrued, but not paid, income was deducted for CIT purposes (and for the 4th quarter in general).

EY offers help with VAT risk identification and the calculation of VAT compliance costs, as well as with cross-border VAT planning.

## Value-added tax

A European Union-style VAT applies in Kazakhstan. The VAT rate has fallen progressively from 20% in the late 1990s to 12% currently.

### Payers and registration

All taxpayers registered for VAT purposes are required to accrue VAT on their taxable supplies, and calculate and report their VAT obligations.

Taxpayers are required to register for Kazakhstan VAT purposes if their total turnover in a calendar year exceeds 30,000 MCI (approximately US\$180,000).

The deadline for VAT registration is 10 business days after the end of the month in which the turnover threshold is exceeded.

Penalties for non-registration are severe: up to 30% of turnover for the period of non-registration.

Even if an entity is not required to register for VAT purposes, it may usually do so voluntarily by applying to the appropriate tax committee.

### Deregistration

A VAT payer may submit an application for VAT deregistration to the local tax authorities if the following conditions are met simultaneously:

- ▶ Taxable turnover for the calendar year preceding the year in which the tax application is submitted did not exceed 30,000 MCI (approximately US\$180,000)
- ▶ Taxable turnover from the beginning of the current calendar year in which the tax application is submitted did not exceed 30,000 MCI (approximately US\$180,000)

The tax authorities will deregister a VAT payer without notification if, for example:

- ▶ A VAT declaration is not submitted within six months after the due date established by the Tax Code
- ▶ The VAT payer is declared by the courts to be a sham company (false enterprise)
- ▶ The zero VAT declaration for two consecutive periods failed to include information on the VAT payer's output and input turnover
- ▶ Taxable turnover did not exceed the minimum threshold of 30,000 MCI (approximately US\$180,000) for the calendar year in which an application for obligatory VAT registration was submitted

### VATable turnover

For a VAT payer, taxable turnover is the total of practically any type of supply it makes (e.g., sale, exchange or gift) of goods, work and services, and the total of its acquisitions of work and services from non-registered nonresidents. A limited number of non-taxable and exempt supplies are excluded from this rule.

Definitions:

- ▶ For Kazakhstan VAT, the term "goods" applies to practically any form of property or property rights.
- ▶ Taxable supplies of work or services are any supplies of work or services, both chargeable and free of charge, as well as anything that is done for consideration and is not the supply of goods.

A small number of transactions, such as transfers to a legal entity's charter capital, are treated as non-taxable.



Goods and services are VATable if, under place-of-supply rules, they are deemed to be supplied in Kazakhstan. The place-of-supply rules are broadly similar to European Union rules; in particular, they treat some supplies that are made outside of Kazakhstan, such as consultancy, as made inside Kazakhstan, and so taxable.

#### **Zero rating**

Turnover and imports exempt from VAT include:

- ▶ Export sales of goods
- ▶ International transportation services
- ▶ Sales of oil and lubricants by airports when fueling aircraft of a foreign air carrier engaged in international transportation
- ▶ Sales of goods to SEZ

#### **Exempt supplies**

Turnover and imports exempt from VAT include:

- ▶ Turnover associated with residential buildings
- ▶ Certain financial services
- ▶ Transfers of assets under finance leases (interest part)
- ▶ Turnover from services rendered by non-commercial organizations
- ▶ Turnover from services in the spheres of culture, science and education
- ▶ Imports of certain assets included in a government-approved list
- ▶ Goods imported by individuals not for entrepreneurial purposes
- ▶ Imports of goods from a EAEU member country within the same legal entity (e.g., intra-entity transactions)

#### **VAT offsets**

VAT paid on goods and services purchased by a VAT payer (i.e., input VAT), including reverse-charge VAT already paid and VAT paid in customs, can generally be offset (credited) when a taxpayer's VAT liability to the budget is determined. Offsets are not allowed, however, for VAT incurred for the purpose of making supplies that are either exempt or deemed to be supplied outside of Kazakhstan.

#### **VAT calculation and offset carry-forward**

A taxpayer's VAT liability is calculated as output VAT (i.e., VAT charged by the taxpayer) minus input VAT (i.e., VAT paid by the taxpayer to its suppliers, reverse-charge VAT and import VAT) in a given reporting period.

The excess of input VAT over output VAT may generally be carried forward against future VAT liabilities. In practice, it requires significant effort to obtain refunds, although the rules do prescribe a procedure for refunds under certain conditions (e.g., continuous exports).

#### **Non-recoverable input VAT**

Input VAT cannot be offset if it is paid in connection with the receipt of the following:

- ▶ Goods, work, and services unrelated to taxable turnover
- ▶ Passenger cars purchased as fixed assets
- ▶ Goods, work and services when a VAT invoice is issued that is not in compliance with the requirements of the Tax Code
- ▶ Goods and services purchased for cash in an amount exceeding 1,000 MCI (approximately US\$6,000), irrespective of the frequency of payment
- ▶ Goods, work and services transferred free of charge

- ▶ Purchases of goods, work and services from suppliers regarded by the courts as sham companies, except for transactions recognized by the courts as valid
- ▶ Purchases of goods, work and services where the courts regard them as having been made by private business entities without the actual intent to carry out entrepreneurial activities

#### **VAT rate and compliance**

The VAT rate is 12%, and the tax period for VAT is a calendar quarter. The submission deadline for VAT returns is the 15th day of the 2nd month following the reporting period. The VAT payment deadline is the 25th day of the second month following the reporting period.

#### **Reverse-charge VAT**

Under place-of-supply rules, certain services are deemed to be supplied in the location of the business activity of the purchaser of services. These services include consulting, auditing, engineering, design, marketing, legal, accounting, advocacy, advertising and information-processing services, as well as the provision of personnel, leasing of movable property and communication services. Where such services are rendered by a nonresident not registered for VAT purposes in Kazakhstan, the Kazakhstan purchaser of these services is required to self-assess and pay VAT to the budget via a reverse-charge mechanism.

It is the obligation of the Kazakh purchaser of services to pay reverse-charge VAT, which should be allowed to offset against output VAT once paid, subject to the general offset procedure.



EY offers a comprehensive tax compliance service and tax reviews to assess in-house tax compliance risks, as well as onsite tax audit support and a full range of tax appeal services, including, where permitted, litigation.

## EAEU

The Tax Code includes certain procedures and monthly compliance requirements for imports of goods to Kazakhstan from countries in the EAEU (Russia, Belarus, Armenia and Kyrgyzstan).

## Electronic invoicing

Effective from 1 July 2014, taxpayers may issue electronic invoices for VAT purposes on a voluntary basis. Electronic VAT invoices may be issued only by using the tax authorities' official online system, which is specifically designed to receive and process electronic VAT invoices. From 1 January 2017, all VAT payers will be required to issue electronic VAT invoices.

## Potential indirect tax reform

It is also worth noting that certain discussions are underway within the Government on the possibility of replacing VAT with a sales tax (or turnover tax) from 1 January 2017. However, as of the date of this publication, no amendments to this effect have yet been drafted.

## Subsoil use taxes

Please refer to EY's *Kazakhstan oil and gas guide* and *Mining tax guide* for details.

## Tax administration

In Kazakhstan, the tax administration rules are complex, and penalties for even minor infringements can be significant.

## Tax returns

Tax reports (including returns and calculations) are compiled by the taxpayer, tax agent or their representatives. Tax reports may be prepared on paper or electronically in the Kazakh or Russian languages.

## Tax accounting policy

A tax accounting policy is a document adopted by a taxpayer (tax agent) that regulates tax accounting in accordance with the Tax Code. A tax accounting policy is mandatory for all taxpayers (tax agents).

## Tax audits

Many taxpayers are audited, and it is vital to manage the tax audit process. Tax audits can generally be divided into the following main categories:

- ▶ Comprehensive tax audit
- ▶ Thematic (targeted) tax audit
- ▶ Cross-check tax audit

Tax audits can cover any period within the statute of limitations, which is generally five years. Tax audits can be intrusive and time-consuming, and may sometimes even result in criminal proceedings, as discussed in the "Penalties and interest" section below.

## Assessments

Upon completion of a tax audit, the state revenue authorities usually issue a tax audit act (if no violations of tax law are discovered, an appropriate note is made in the tax audit act). Based on the findings of such an act, the state revenue authorities issue a notification of assessed amounts of taxes and other obligatory payments to the budget, as well as related penalties and interest. The tax authorities also issue a resolution on any administrative violation, indicating the amount of administrative penalty.

## Appeals

Taxpayers have the right, within time limits, to appeal acts of the state revenue authorities to a higher state revenue authority or the courts.

## Penalties and interest

The Code of Administrative Violations imposes administrative penalties for

non-compliance with tax regulations, including the following:

- ▶ Under-declared taxes – 30% to 50% of the under-declared amount
- ▶ Understatement of an advance CIT payment by more than 20%–40% of the understated tax
- ▶ Failure to withhold taxes – 30% to 50% of the non-withheld tax
- ▶ Concealment of taxable items – 150% to 200% of taxes payable on the concealed amount

Interest is charged on late tax payments at a rate of 2.5 times the National Bank's annual refinancing rate (currently 5.5%) for each day it is late.

In addition, the concept of criminal liability is applied to taxes in Kazakhstan. An organization is generally regarded as having committed a criminal violation when misreported tax exceeds 20,000 MCI (approximately US\$120,000). Such violations trigger investigations by the Economic Investigation Service of the State Revenue Committee and may even result in the prosecution of individuals who are thought to be responsible.

## Tax rulings

Non-binding tax clarifications may be obtained from the state revenue authorities in Kazakhstan. A taxpayer may apply to the state revenue authorities where it is registered or to a higher body of the state revenue authorities, if required.

The state revenue authorities usually provide their opinion on specific tax queries in the form of a letter. However, they are of an advisory nature and do not have full legal force. Letters may be canceled or recalled.



Photo: The Park of the First President of the Republic of Kazakhstan, Almaty, Kazakhstan

# An overview of other laws that affect business administration

## Transfer pricing issues

Kazakhstan's transfer pricing legislation has wide applicability for all businesses. The impact for subsurface users is particularly broad.

Transfer pricing rules potentially apply to all cross-border transactions, regardless of whether the parties are in any way related. In certain cases (e.g., transactions of subsurface users involving the sale of hydrocarbons and minerals), transfer pricing control also applies to domestic transactions if they are related to cross-border transactions.

The law allows for the following methods of determining market prices:

- ▶ Comparable uncontrolled price method
- ▶ Costs plus method
- ▶ Subsequent resale price method
- ▶ Profit split method
- ▶ Net margin method

Except for transactions with agricultural products, there is no safe harbor in terms of deviation from the market price. At the same time, the law does, in theory, recognize that there may be a range of market prices. In determining market prices under the comparable uncontrolled price method, adjustments to prices obtained from officially recognized sources of price information are allowed in at least some cases, except where one of the parties to a transaction is registered in a tax haven.

EY's Transfer Pricing Services include reviews to detect transfer pricing risks, development of transfer pricing policies and transfer pricing studies. We can help companies conclude transfer pricing agreements with the state revenue authorities, as well as assisting with tax audits, dispute resolution, and the preparation of transfer pricing documentation and monitoring reports.

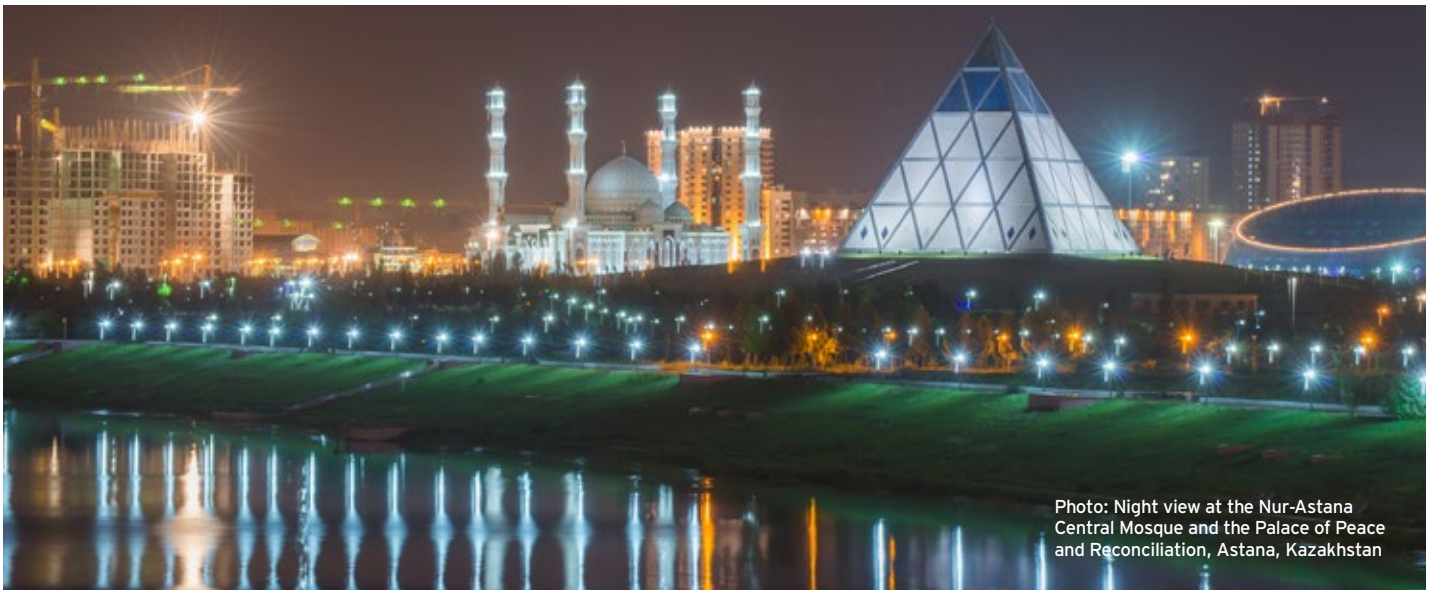


Photo: Night view at the Nur-Astana Central Mosque and the Palace of Peace and Reconciliation, Astana, Kazakhstan





EY offers Employment Law Services, including the preparation of standard legal documents and consultancy on performance and reward planning.

## Employment regulations

On 1 January 2016, the new Labor Code came into effect in Kazakhstan. It regulates labor relations between residents and nonresidents in Kazakhstan.

An employment agreement must be concluded with each employee and must reflect an employee's rights, obligations and guarantees as established by the Labor Code. As a general rule, an employment agreement must not worsen or limit an employee's rights under the Labor Code.

There is a specific requirement that an employer must obtain a work permit for a foreign individual (if applicable) before concluding an employment agreement with them. Otherwise, a foreign individual must obtain a permit for employment independently.

Under the Labor Code, an employer is responsible for proper execution of an employment agreement, which may be for a fixed or indefinite term. It may establish a probation period that should generally not exceed three months (for certain positions, it may be extended to as much as six months).

Kazakh law has an MMS requirement. The working week is limited to 40 hours. The Labor Code does not allow overtime greater than 120 hours per year.

The minimum paid vacation period under the Labor Code is 24 calendar days. Additional vacation days should be provided for employees working in dangerous or hazardous conditions.

Maternity leave is 126 calendar days (70 days before the birth of a child and 56 days afterward or up to 70 days in the event of complications and for those with two or more children).

Under Kazakh law, an employer must insure employees against injuries during the performance of their labor (official) responsibilities within the first 10 days of the month following the month when the employer began their activities.

The Labor Code established a notion of secondment for the first time. This is defined as performance by an employee (seconded) of one legal entity of work for another legal entity, under: (i) certain specialty, qualification or position (labor duties) stipulated in their labor agreement; or (ii) under other specialty, qualification or position (labor duties), except for limitations set by the legislation. The Labor Code limits secondment to two cases and states that secondment of employees is allowed to a legal entity:

- ▶ The shares or participation interests in which are directly or indirectly owned by the seconding legal entity (parent)
- ▶ Directly or indirectly owning shares or participation interest in the seconding legal entity (subsidiary)


## Import and export formalities and customs duties

### Customs regulations of Kazakhstan

Kazakhstan is a part of the unified customs territory of the EAEU along with Armenia, Belarus, Kyrgyzstan and Russia. The EAEU, which came into being on 1 January 2015, envisages free movement of goods, services, capital and labor force within its borders.

The EAEU envisages unified customs legislation as well as tariff and non-tariff regulations for imports from third countries. The EAEU establishes various types of customs clearance procedures, including the release of goods for internal consumption, temporary import, reimport, customs warehouse, duty-free shops, transit, export and other customs procedures.

Goods imported from third countries and cleared through customs or produced/sufficiently processed in a EAEU member state are transported without customs control/declaration within the EAEU. However, since Armenia does not have common borders with other EAEU states, goods must be shipped between Armenia and the rest of the EAEU via non-member states under the transit customs procedure.



EY offers a full range of customs and international trade services concerning various aspects of cross-border operations.

## Customs duties and classification of goods

EAEU member states apply the Common Customs Tariff to goods imported from third countries. It determines the rates of import duties and the classification of goods. Under the Common Customs Tariff, rates of import duties, which are normally based on a percentage of the customs value of goods, can vary from 0% to 35% or are fixed in US\$/euro per unit of measurement.

Each EAEU member state sets its own rates of export duties. For the purposes of estimating export duties, a customs declarant should apply the rates of the EAEU member state in which goods are placed under the export procedure. Export duty rates in Kazakhstan can vary from 3% to 30% of customs value or are fixed in US\$/euro per unit of measurement.

The amount of fees for customs clearance is subject to regulation by the domestic laws of EAEU member states. In Kazakhstan, the customs clearance fee is €60 for the first page of a customs declaration plus €25 for each additional page.

The customs value of goods is determined based on the Agreement on the Determination of Customs Value, concluded by EAEU member states on 25 January 2008, which applies to goods imported from third countries into the EAEU.

Under some customs procedures, full or partial exemption from customs duties and taxes are granted to members of SEZ, holders of investment contracts and in other cases. There are also certain non-tariff regulations, such as those limiting or prohibiting the import or export of certain goods.

## Kazakhstan and the WTO

### Import duties

On 30 November 2015, Kazakhstan became the 162nd member of the WTO. According to Kazakhstan's schedule of concessions, within five years after accession to the WTO, Kazakhstan is expected to lower import duties by 2% to 5% on nearly 3,500 items or reduce them to 0%, depending on the type of goods.

To this end, the EAEU has adopted a list of goods (the Withdrawal List) that qualify for lower import duty rates than those set out in the Common Customs Tariff. The Withdrawal List currently contains 1,347 items, including pharmaceuticals, agricultural products, precious stones and metals, textiles, vehicles and others.

In line with its EAEU obligations, Kazakhstan has undertaken commitments not to allow goods on the Withdrawal List that are imported at lower customs duty rates from WTO members to be exported to other EAEU member states.

Goods on the Withdrawal List that are imported into Kazakhstan should be imported either at WTO rates without the right of export to other EAEU member states or at Common Customs Tariff rates, if the goods will be exported to other EAEU member states.

### Export duties

Kazakhstan has reserved the right to continue to assess export duties on certain goods that are currently subject to export duty in Kazakhstan (petroleum and related products, remnants and scraps of ferrous and non-ferrous metals, elements of locomotive rolling stock, wool and domestic animal hides and others). However, from 1 January 2016, Kazakhstan will decrease export duties annually on certain types of goods in line with its WTO obligations.


In acceding to the WTO, Kazakhstan undertook a tariff obligation to switch to calculating the export duty rate for crude oil based on the formula under which the rate will be established on a monthly basis by the Ministry of National Economy of the Republic of Kazakhstan, based on the monthly average market price of crude oil.

## Permit regulations

### Licenses for certain types of activity

Kazakhstan permit regulations categorize all permits based on the level of danger of the activities or operations to be performed:

- ▶ First-category permits include licenses – required for activities or operations associated with a high level of danger
- ▶ Second-category permits include all permits that are not licenses – required for activities or operations associated with a medium level of danger
- ▶ Notifications for activities or operations where there is a low level of danger, but the relevant state authority needs to be notified when a business is started or closed.



EY advises its clients as to whether a contemplated business activity is subject to licensing or other regulatory requirements, and may assist clients in obtaining licenses and permits.

There is an exhaustive list of activities for which licenses or permits must be obtained or notifications must be submitted to the Kazakhstan state authorities. Effective from December 2015, this list includes 87 licenses, 357 permits and 36 notifications.

The range of business and professional activities that are subject to permit regulations is very broad. It is important for investors to determine whether or not they need a license, permit or notification in advance. Kazakh law establishes various types of liability and substantial penalties for failure to comply with permit regulations.

Provided that an applicant has fully satisfied all applicable requirements, Kazakhstan law requires a licensing authority to issue a license within 15 business days after an application with the required supporting documents is submitted (except for certain licenses subject to different procedural rules). If, however, an applicant does not meet the requirements or fails to obtain certain required documents, the licensing authority may issue a substantiated refusal. In such cases, the applicant may rectify the application and supporting documents and reapply. This may take longer, as the law does not limit the number of submissions for a license.

Meanwhile, the law establishes specific requirements and terms for each permit needed for certain activities. In practice, however, the process of obtaining a required permit may take longer (from one to six months) due to numerous technicalities that may be involved in preparing documents.

### **Licenses for engineering and construction**

These licenses are divided into three categories, depending on the complexity of the objects to be engineered and/or constructed. The license category allows the licensee to engineer and/or construct a building or facilities of a certain level of complexity (e.g., airport construction requires a first-category license).

In order to obtain these licenses for engineering and/or construction, an applicant should meet all qualification requirements adopted by the Government of Kazakhstan. First- and second-category licenses require 10 and 5 years of experience in engineering and construction, respectively. Please note that foreign companies entering the Kazakhstan market may obtain first- and second-category licenses if they have the relevant work experience, but such experience will be recognized only if a branch is established in Kazakhstan. A subsidiary in the form of an LLP would be regarded as a separate legal entity, therefore no experience would be recognized.

No license is required for installation or commissioning of technological equipment and/or materials by manufacturers or others parties (if the appropriate qualifications and/or authority are documented) related to:

- ▶ Hydraulic engineering and reclamative facilities
- ▶ Production of construction materials, goods and structural systems
- ▶ Objects of theater, entertainment, education and sports purposes

- ▶ Communication, emergency protection, control and alarm system, transport interlock, electricity and water supply facilities
- ▶ Metering devices and industrial control devices

The law does not specify any requirements with regard to the documents for such entities. Perhaps such requirements will be introduced in regulatory legal acts to be developed in fulfillment of the law.

### **Licenses for the import/export of goods**

Permit regulations establish a list of goods whose import/export is subject to licensing. The license references each unit of goods and must be issued within 30 business days upon receipt of application. These licenses are distinguished as follows:

- ▶ General license granted to a foreign trade participant, based on a decision of a Custom Union member state, to export or import certain goods in the quantity indicated in the license
- ▶ Exclusive license grants exclusive rights to a foreign trade participant to export or import certain goods
- ▶ One-time license granted to a foreign trade participant to export or import a certain quantity of goods under a foreign trade agreement

Import/export licenses are required to submit a report on the use of the license to the authorized bodies.

State services, such as obtaining permits and licenses and submitting notifications, can be performed in electronic form via the website [www.elicense.kz](http://www.elicense.kz).





EY has a team of law professionals who can advise on banking regulations matters.

## Banking regulations

### Banking system

The banking system of the Republic of Kazakhstan is a two-tier system. The first tier of this system is the National Bank of Kazakhstan (NBK), which is considered the central bank of Kazakhstan.

The second tier includes other banks, except for the Development Bank of Kazakhstan, which has a special legal status.

Banking operations in Kazakhstan must be licensed by the NBK. Foreign banks have been operating in Kazakhstan since 1993. Although these banks are not allowed to establish branches in Kazakhstan, they may establish wholly owned Kazakhstan subsidiaries.

Islamic banks are also allowed to operate in Kazakhstan, subject to restrictions specified in Kazakh law. Islamic banking is subject to licensing by the NBK. Islamic banks cannot participate in the Kazakhstan deposit insurance system, and deposits of an Islamic bank cannot be insured by the Kazakhstan deposit insurance system.

There are also international financial institutions operating in Kazakhstan that provide financing to local businesses in the form of loans or equity investments. These operations should be treated as licensable banking operations, provided that they are carried out under international treaties to which Kazakhstan is a party.

## Currency regulations

Currency law involves some formal requirements, but does not impede most international business operations.

It distinguishes the following parties to currency transactions:

- ▶ Kazakh residents, i.e., (i) Kazakh citizens (except for individuals who have permanent residency status abroad,) (ii) foreigners and stateless persons who have permanent residency status in Kazakhstan, (iii) legal entities registered in Kazakhstan, their branches and representative offices located in Kazakhstan and abroad as well as diplomatic, trade and other official missions of Kazakhstan abroad
- ▶ Kazakh nonresidents, i.e., (i) foreign citizens and stateless persons (other than those who have permanent residency status in Kazakhstan), foreign legal entities, their branches and representative offices, (ii) international organizations (unless international treaties state otherwise), and (iii) diplomatic and other official missions of foreign states in Kazakhstan

Currency law states that transactions between Kazakh residents and nonresidents can be in any currency. However, transactions among residents should only be in KZT.

Individuals (residents and nonresidents) may take the equivalent of US\$10,000 foreign currency in cash into and out of the country without declaring it, provided that its source can be documented, unless a larger amount is specifically allowed by Kazakh law.

Currency law establishes two main regimes of currency regulation: registration and notification of currency transactions.

### Registration

Registration is done by the NBK and envisages the registration of a currency transaction, with the following reporting to the NBK on the registered currency transaction.

Currency operations should generally be registered before any obligations are performed by either party to an agreement.

The following types of currency transactions may have to be registered by residents with the NBK:

- ▶ Payments on commercial credits for the export or import of goods for a period of over 180 days
- ▶ Direct investments (as this term is defined in Kazakh currency law) made by Kazakh nonresidents in Kazakhstan and by Kazakh residents outside of Kazakhstan
- ▶ Financial loans (as this term is defined in Kazakh currency law) for a period of over 180 days
- ▶ Payments by Kazakh residents to Kazakh nonresidents, as well as payments by nonresidents to Kazakh residents, related to the acquisition of full exclusive rights to intellectual property, or payments related to the transfer and receipt of money and other property by Kazakh residents in lieu of an obligation on the part of a consortium member



### Notification

The notification regime requires that information is provided to the NBK on certain types of currency transactions, with the following reporting on the transaction.

The notification regime may be required, for example, in the case of the following transactions:

- ▶ Payments related to the export or import of work or services for a period of over 180 days
- ▶ Opening a bank account with a foreign bank (only by Kazakh resident legal entities)
- ▶ Acquiring securities, making contributions to charter capital and currency operations related to derivatives

These transactions are subject to either registration or notification if the transaction amount exceeds the threshold specified by Kazakh currency law.

### Export-import currency control

A Kazakh resident should confirm that currency proceeds under export or import contracts are repatriated into Kazakhstan within the term of repatriation.

For purposes of control over the repatriation of currency into Kazakhstan, export/import contracts should be assigned a registration number by a Kazakh bank or territorial branch of the NBK. Currency regimes (whether the registration or notification regime) do not apply to contracts that after assigned a registration number.

### Sale and purchase of foreign currency

All legal entities, with the exception of authorized banks and authorized organizations, may buy and sell foreign currency on the domestic currency market only by applying to do so through authorized banks.

When applying to purchase foreign currency through an authorized bank, a Kazakh legal entity that is neither an authorized bank nor an authorized organization should specify:

- (a) the purpose of the purchase;
- and (b) the amount of foreign currency to be purchased.

When purchasing foreign currency with the KZT in an amount exceeding the equivalent of US\$100,000, a Kazakh legal entity that is neither an authorized bank nor an authorized organization should include the following documents with its application:

- ▶ A copy of the foreign currency agreement that is the reason for the purchase of foreign currency
- ▶ Other documents confirming the purpose and amount of foreign currency to be purchased

When reviewing an application, the authorized bank checks the purpose of the purchase and the amount of foreign currency specified in the application against those specified in the foreign currency agreement and/or other documents confirming the purpose and amount of foreign currency to be purchased.

When applying to buy or sell foreign currency with the national currency via an authorized bank, a non-Kazakh legal entity should specify the purpose of the purchase or sale of foreign currency.

### Special currency regime

Kazakh law on currency regulation authorizes the President of Kazakhstan to introduce a special currency regime in the event of a threat to the economic security and financial stability of Kazakhstan.

A special currency regime may include, among other things, the requirement that a deposit be made on a free-of-charge basis equal to the amount of interest on a currency transaction in a Kazakh bank, the requirement that special authorization be obtained from the NBK to carry out currency transactions, the mandatory sale of foreign currency received by Kazakh residents, and limitations on the use of accounts in foreign banks and effect settlements in currency transactions.

# EY in Kazakhstan

In 1992, EY was the first international professional services organization to open an office in Kazakhstan. It is part of our EMEA practice, encompassing Europe, the Middle East, India and Africa. In Kazakhstan, EY has three offices: in Astana, Almaty and Atyrau.

## Encouraging investment

EY is committed to enhancing the business and investment environment in Kazakhstan. We organize a variety of professional events and knowledge-sharing sessions in order to promote international leading practices and industry expertise, as well as to advise the investment community on the most recent or anticipated changes to the regulatory environment. EY is involved in the work of the Foreign Investors' Council, chaired by the President of the Republic of Kazakhstan, and co-chairs its working group on Investment Policy. EY is also actively involved in a number of business, professional and industry associations in Kazakhstan.

## Supporting our clients in the dynamic landscape

At EY, we know that businesses in emerging markets need innovative thinking and practical advice in order to succeed. We support our clients by facilitating their sustainable development strategy and helping them create new growth opportunities in today's dynamic economic environment.

## Our major services

- ▶ Assurance
- ▶ Tax & Law
- ▶ Transactions
- ▶ Advisory
- ▶ Academy of Business

## Office locations

### Astana

Kaskad Business Center  
Kabanbai Batyr Ave., 6/1, Astana,  
010000, Republic of Kazakhstan  
Tel: +7 7172 58 0400  
Fax: +7 7172 58 0410

### Almaty

Esentai Tower  
Al-Farabi Ave., 77/7, Almaty,  
050060, Republic of Kazakhstan  
Tel: +7 727 258 5960  
Fax: +7 727 258 5961

### Atyrau

Atyrau Plaza  
Satpaev Str., 19, Atyrau,  
060011, Republic of Kazakhstan  
Tel: +7 7122 55 2100  
Fax: +7 7122 55 2101

## Thought leadership



Tax Insights



Compensation and  
benefits survey in  
Kazakhstan



EY Legislative Alert



EY Tax Compliance  
Reminder



EY Insights App



EY Global Tax Guides





Photo: Fountain at the Park of the First President of the Republic of Kazakhstan, Almaty, Kazakhstan

## Contact information

For more information on how EY can help you get your bearings in Kazakhstan's tax and legal terrain, please contact one of the following EY leaders:



**Erlan Dosymbekov**  
Managing Partner,  
Kazakhstan and Central Asia  
Tel: +7 727 258 5960  
erlan.b.dosymbekov@kz.ey.com



**Konstantin Yurchenko**  
Partner, Tax & Law Services  
Leader for Kazakhstan  
and Central Asia  
Tel: +7 727 258 5960  
konstantin.yurchenko@kz.ey.com



**Dinara Tanasheva**  
Partner, Law Services Leader  
Tel: +7 727 258 5960  
dinara.s.tanasheva@kz.ey.com

## Tax & Law Services

### Ernst & Young Kazakhstan LLP

**Country Tax Advisory,  
Cross Border Tax Advisory**  
Konstantin Yurchenko  
Partner, Tax & Law Services Leader  
for Kazakhstan and Central Asia  
konstantin.yurchenko@kz.ey.com

**Global Trade**  
Dinara Tanasheva  
Partner, Law Services Leader  
dinara.s.tanasheva@kz.ey.com

**Global Compliance and Reporting**  
Amangeldy Mussayev  
Partner  
amangeldy.mussayev@kz.ey.com

**People Advisory Services**  
Madina Savina  
Director  
madina.savina@kz.ey.com

**Law**  
Dinara Tanasheva  
Partner, Law Services Leader  
dinara.s.tanasheva@kz.ey.com

**Private Client Services**  
Madina Savina  
Director  
madina.savina@kz.ey.com

**Tax Accounting**  
Doniyorbek Zulunov  
Director  
doniyorbek.zulunov@kz.ey.com

**Tax Performance Advisory**  
Konstantin Yurchenko  
Partner, Tax & Law Services Leader  
for Kazakhstan and Central Asia  
konstantin.yurchenko@kz.ey.com

**Tax Policy and Controversy**  
Dinara Tanasheva  
Partner, Law Services Leader  
dinara.s.tanasheva@kz.ey.com

**Transaction Tax**  
Doniyorbek Zulunov  
Director  
doniyorbek.zulunov@kz.ey.com

**Transfer Pricing and Operating  
Model Effectiveness**  
Roman Yurtayev  
Director  
roman.yurtayev@kz.ey.com

**VAT, GST and Other Sales Taxes**  
Danna Balafanova  
Senior Manager  
danna.balafanova@kz.ey.com

# Appendix

## Double tax treaties

The following table lists the WHT rates under Kazakhstan's double tax treaties.

No.	Country	Dividends, %	Interest, %	Royalties, %
1	Armenia	10	10	10
2	Austria	5/15 (a)	10	10
3	Azerbaijan	10	10	10
4	Belarus	15	10	15
5	Belgium	5/15 (a)	10	10
6	Bulgaria	10	10	10
7	Canada	5/15 (a)	10	10
8	China	10	10	10
9	Czech Republic	10	10	10
10	Estonia	5/15	10	15
11	Finland	5/15 (a)	10	10
12	France	5/15 (a)	10	10
13	Georgia	15	10	10
14	Germany	5/15 (b)	10	10
15	Hungary	5/15 (b)	10	10
16	India	10	10	10
17	Iran	5/15 (c)	10	10
18	Italy	5/15 (a)	10	10
19	Japan	5/15 (a)	10	10
20	Korea (South)	5/15 (a)	10	10
21	Kyrgyzstan	10	10	10
22	Latvia	5/15 (b)	10	10
23	Lithuania	5/15 (b)	10	10
24	Luxembourg	5/15 (d)	10	10
25	Macedonia	5/15 (b)	10	10
26	Malaysia	10	10	10
27	Moldova	10/15 (b)	10	10
28	Mongolia	10	10	10
29	Netherlands	5/15 (a)	10	10
30	Norway	5/15 (a)	10	10
31	Pakistan	12.5/15 (a)	12.5	15
32	Poland	10/15 (c)	10	10
33	Romania	10	10	10
34	Russian Federation	10	10	10
35	Singapore	5/10 (b)	10	10
36	Slovak Republic	10/15 (e)	10	10
37	Spain	5/15 (a)	10	10
38	Sweden	5/15 (a)	10	10
39	Switzerland	5/15	10	10
40	Tajikistan	10/15	10	10
41	Turkey	10	10	10
42	Turkmenistan	10	10	10
43	Ukraine	5/15 (b)	10	10
44	United Arab Emirates	5/15 (a)	10	10
45	United Kingdom	5/15 (a)	10	10
46	United States	5/15 (a)	10	10
47	Uzbekistan	10	10	10
48	Vietnam	5/15 (f)	10	10
49	Non-treaty countries	15 (g)	15 (g)	15 (g)

(a) The lower rate applies to dividends paid to companies owning at least 10% of the payer. The 15% rate applies to other dividends.

(b) The lower rate applies to dividends paid to companies owning at least 25% of the payer. The 15% rate applies to other dividends.

(c) The lower rate applies to dividends paid to companies owning at least 20% of the payer. The 15% rate applies to other dividends.

(d) The lower rate applies to dividends paid to companies owning at least 15% of the payer. The 15% rate applies to other dividends.

(e) The lower rate applies to dividends paid to companies owning at least 30% of the payer. The 15% rate applies to other dividends.

(f) The lower rate applies to dividends paid to companies owning at least 70% of the payer. The 15% rate applies to other dividends.

(g) For payments to entities registered in tax havens (per the list of countries with preferential tax regimes), the rate is 20%.



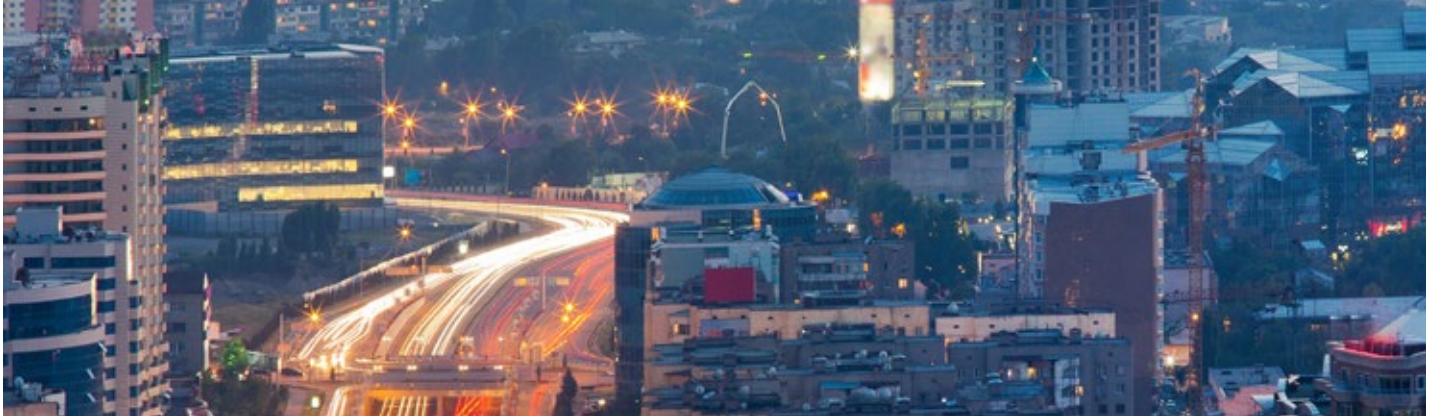
Photo: Almaty city lights along the Al-Farabi avenue, Almaty, Kazakhstan

## List of countries with preferential tax regimes

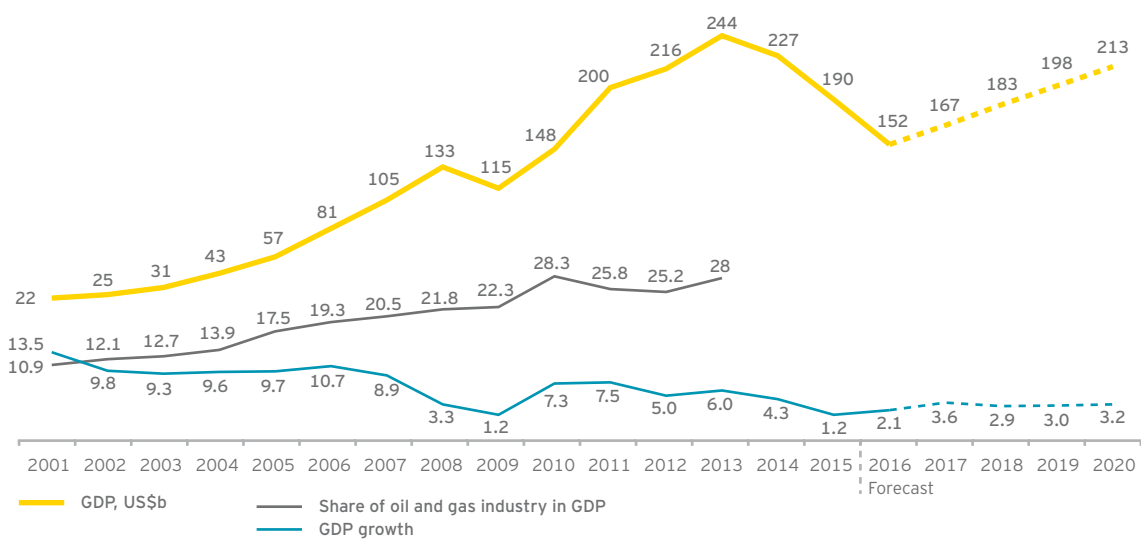
Approved by Order No. 595 of the Minister of Finance of the Republic of Kazakhstan of 29 December 2014 (amended on 27 February 2015)

1. Principality of Andorra
2. State of Antigua and Barbuda
3. Commonwealth of the Bahamas
4. State of Barbados
5. State of Bahrain
6. State of Belize
7. State of Brunei Darussalam
8. Republic of Vanuatu
9. Co-operative Republic of Guyana
10. Republic of Guatemala
11. State of Grenada
12. Republic of Djibouti
13. Dominican Republic
14. Commonwealth of Dominica
15. Republic of Ireland (only with regard to the special administrative regions of Dublin and Shannon)
16. Kingdom of Spain (only with regard to the Canary Islands)
17. Republic of Cyprus
18. People's Republic of China (only as regards the special administrative regions of Aomyn (Macao) and Siangan (Hong Kong))
19. Republic of Colombia
20. Federal Islamic Republic of Comoros
21. Republic of Costa Rica
22. Malaysia (only with regard to the enclave of Labuan)
23. Republic of Liberia
24. Lebanese Republic
25. Principality of Liechtenstein
26. Republic of Mauritius
27. Islamic Republic of Mauritania
28. Portugal (only with regard to the Madeira Islands)
29. Republic of Maldives
30. Republic of the Marshall Islands
31. Principality of Monaco
32. Republic of Malta
33. Mariana Islands
34. Kingdom of Morocco (only with regard to the city of Tangier)
35. Union of Myanmar
36. Republic of Nauru
37. Kingdom of the Netherlands (only with regard to the Aruba Islands and the dependent territories of the Antilles)
38. Federal Republic of Nigeria
39. New Zealand (only with regard to the Cook Islands and Niue)
40. Excluded by an Order of the Minister of Finance of 27 February 2015
41. Republic of Palau
42. Republic of Panama
43. Independent State of Samoa
44. Republic of San Marino
45. Republic of Seychelles
46. State of Saint Vincent and the Grenadines
47. Federation of Saint Kitts and Nevis
48. State of Saint Lucia
49. United Kingdom of Great Britain and Northern Ireland (only with regard to the following areas):
  - 1) Anguilla Islands
  - 2) Bermuda Islands
  - 3) British Virgin Islands
  - 4) Gibraltar
  - 5) Cayman Islands
  - 6) Montserrat Island
  - 7) Turks and Caicos Islands
  - 8) Isle of Man
  - 9) Channel Islands (Guernsey, Jersey, Sark and Alderney)
- 10) South Georgia Island
- 11) South Sandwich Islands
- 12) Chagos Island
50. United States of America (only with regard to the following areas):
  - 1) US Virgin Islands
  - 2) Guam
  - 3) Commonwealth of Puerto Rico
  - 4) Wyoming State
  - 5) Delaware State
51. Republic of Suriname
52. United Republic of Tanzania
53. Kingdom of Tonga
54. Republic of Trinidad and Tobago
55. Sovereign Democratic Republic of Fiji
56. Republic of the Philippines
57. Republic of France (only with regard to the following areas):
  - 1) Kerguelen Islands
  - 2) French Polynesia
  - 3) French Guiana
58. Republic of Montenegro
59. Democratic Republic of Sri Lanka
60. Jamaica

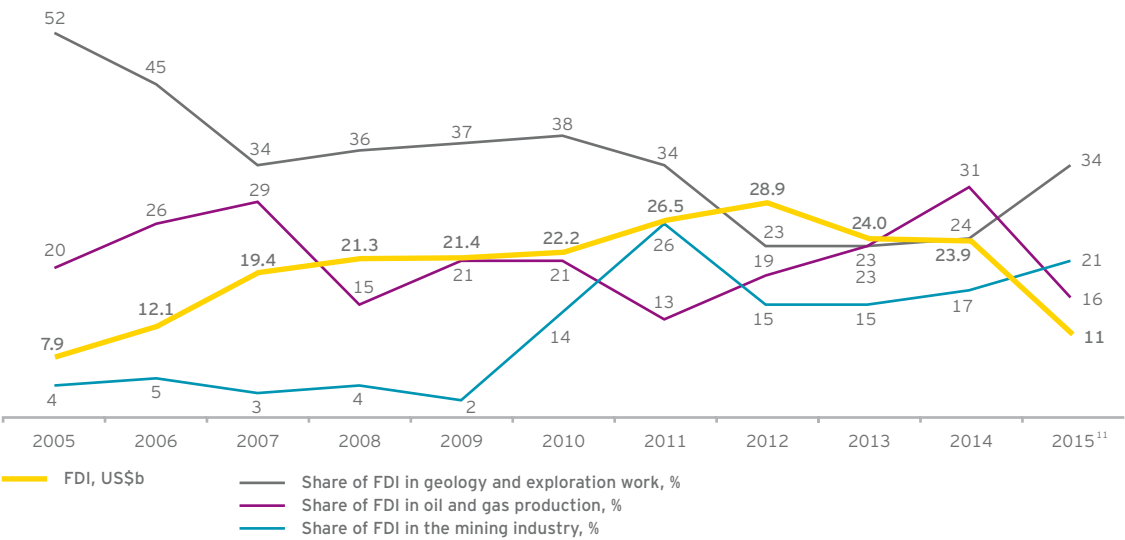




## GDP of Kazakhstan 2001-20



## FDI in Kazakhstan 2005-15



<sup>11</sup> For the first nine months of 2015.



## Key macroeconomic indicators of Kazakhstan 2003-15

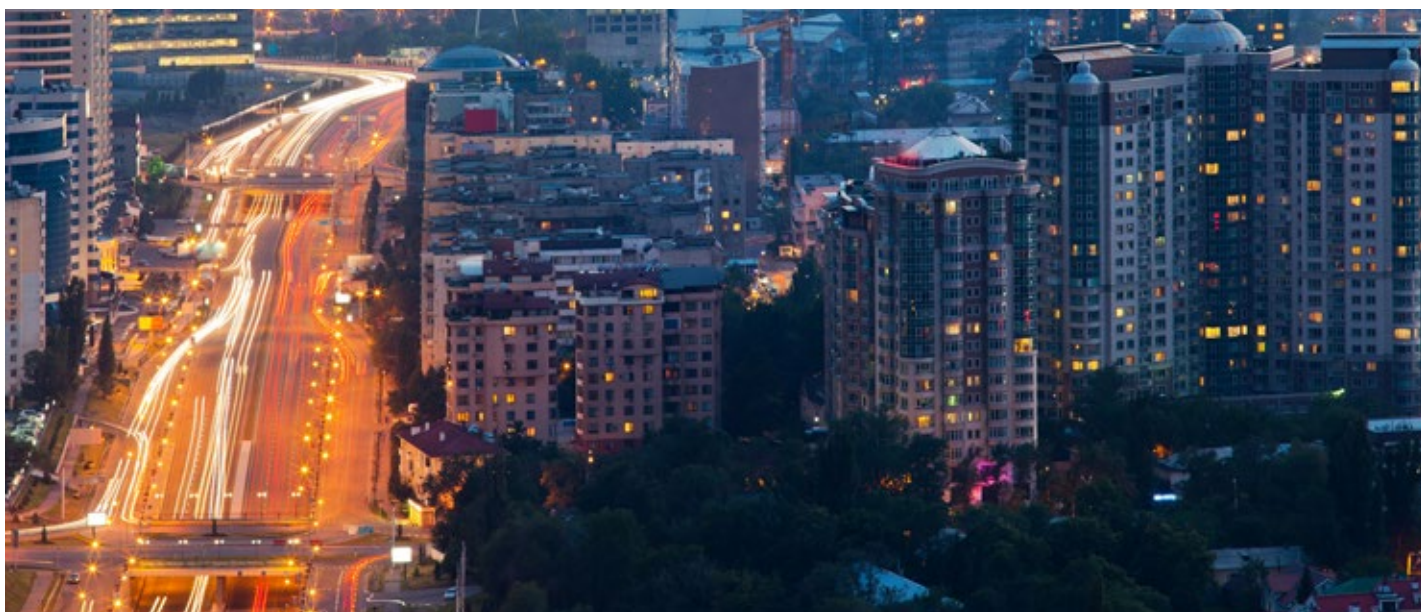
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
GDP growth	9.3%	9.6%	9.7%	10.7%	8.9%	3.3%	1.2%	7.3%	7.5%	5.0%	6.0%	4.3%	1.2% <sup>12</sup>
GDP per capita, US\$	2,068	2,874	3,771	5,292	6,772	8,514	7,165	9,070	11,357	12,119	13,000	13 155	10,830
KZT/US\$ annual average exchange rate	149.58	136.04	132.88	126.09	122.55	120.30	147.50	147.35	146.62	149.11	152.13	179.19	221.73
Gold and foreign currency reserves (US\$ billion)	8.6	14.4	15.1	33.2	38.6	47.4	47.5	59.3	73.0	86.2	95.2	102.5	92.8 <sup>13</sup>
Inflation rate	6.8%	6.7%	7.5%	8.4%	18.8%	9.5%	6.2%	7.8%	7.4%	6.0%	5.8%	7.4%	13.6% <sup>14</sup>

Source: The Ministry of National Economy of Kazakhstan; the Agency of Statistics of Kazakhstan, NBK.

<sup>12</sup> For the first nine months of 2015 / nearest (November) estimation of the Ministry of Economy for the whole year of 2015.

<sup>13</sup> As of November 2015.

<sup>14</sup> Inflation at the end of 2015 (December).



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