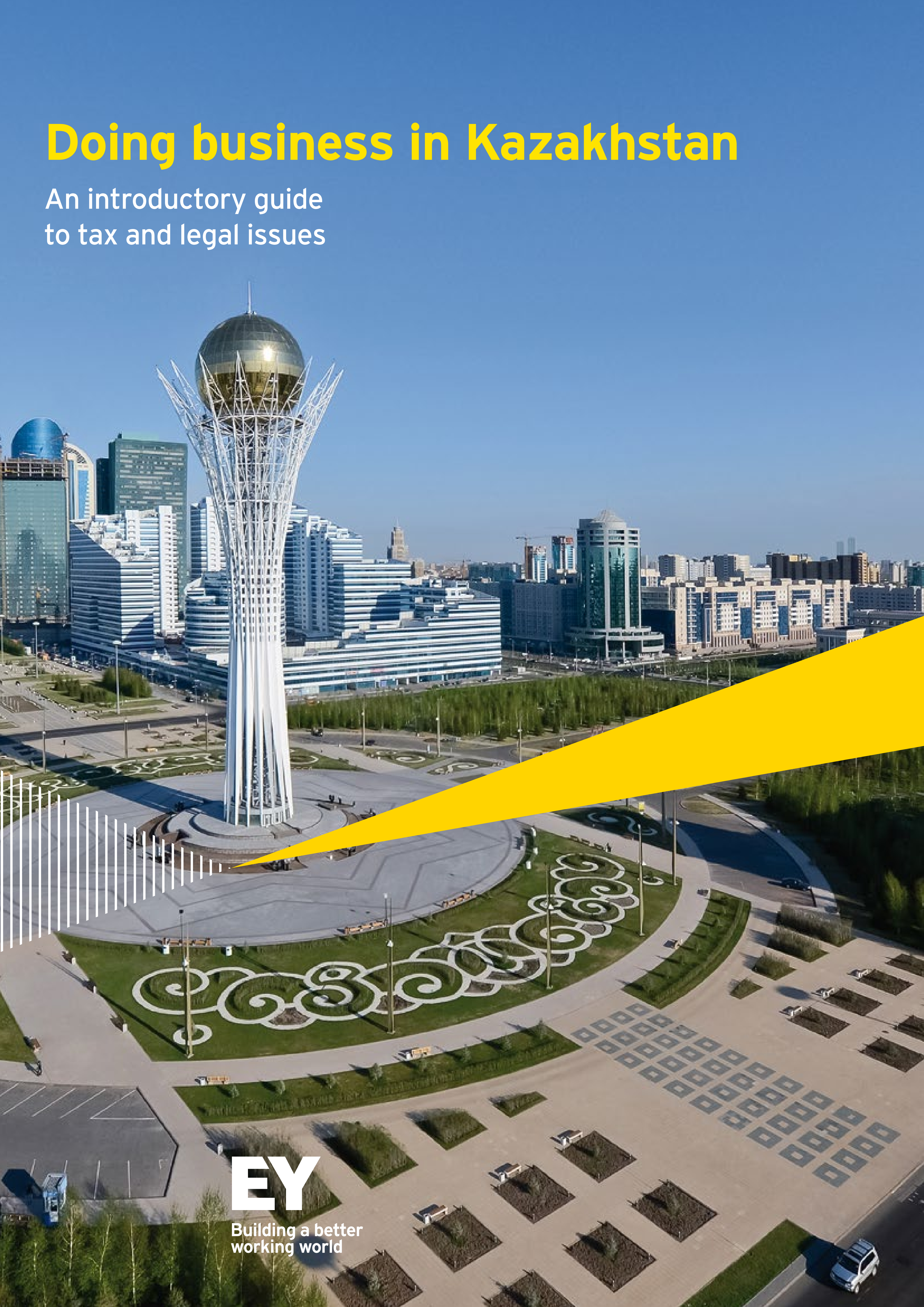
Doing business in Kazakhstan

An introductory guide to tax and legal issues



Building a better working world

Contents

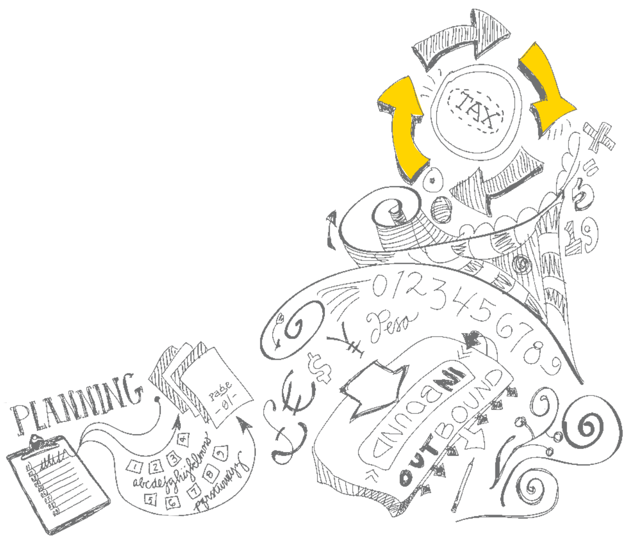
Preface

This publication is intended to provide some 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 give an overview of matters where some forethought and planning will enable future problems to be avoided. Kazakhstan can offer 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 setting up and prospering in Kazakhstan
3. Getting started
4. An overview of tax rules in Kazakhstan
5. An overview of other laws that affect business administration

This guide is a highly summarized version of the rules in force as of 1 January 2014. 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 in this guide we do not deal with all of the taxes of Kazakhstan (of which there are more than 30). Here we cover only the most significant ones, so advice should be sought as to the actual taxes applicable to any particular business.



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Welcome to Kazakhstan

Highlights

- Kazakhstan posted an annual average gross domestic product (GDP) growth rate of 7.5% from 2002 to 2012, with GDP in 2012 reaching US$204 billion (US$12,119 per capita). After a sharp decline in GDP growth from 8.9% in 2007 to 1.2% in 2009, the economy of Kazakhstan has demonstrated a positive trend. In 2013, GDP growth reached 6.0%.[1] In 2013, the Ministry of Economy and Budget Planning of Kazakhstan announced an updated GDP forecast for 2014 to 2018, which foresees an average growth rate of 6.5% in the medium term.
- FDI inflows into Kazakhstan have recorded strong results 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 transportation, among others.
- Kazakhstan is ranked 50th in the Ease of Doing Business rating, according to the World Bank *Doing Business 2014* report. The country improved its ranking by three positions in comparison with 2013.[2]
- The Customs Union between Belarus, Kazakhstan and Russia comprises a market of 170 million consumers.
- In December 2012, the President of Kazakhstan, Nursultan Nazarbayev, in his annual speech to the nation, unveiled the program *Kazakhstan-2050* the main objective of which is to become one of top 30 most developed countries in the world. The realization of this strategy will be guided through a number of key initiatives: comprehensive and pragmatic economic policy (new approach to infrastructure development, modernization of the management system of state-owned assets, natural resource management, accelerated industrialization, agriculture and water resources), development of an entrepreneurship culture, new social policy, improving knowledge and professional competencies, further strengthening the state and democracy, conducting consistent and predictable external policy and building national patriotism.

Governance structure

The Republic of Kazakhstan gained its independence on 16 December 1991. According to 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.

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

[1] The Agency on Statistics of Kazakhstan
[2] *Doing Business 2014*, the World Bank, October 2013.

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 sq km
Population (January 2014)	17.2 million
Proportion of urban population in total (2013)	55% of total population
Age structure (2012 estimate)	0-15 years (27%); 16-62 years (63%); 63 and above (10%)
Languages	Kazakh (official language) Russian (inter-ethnic communication)
President	Nursultan Abishuly Nazarbayev (since 24 April 1990)
Prime Minister	Serik Nygmetovich Akhmetov (since 24 September 2012)
Nominal GDP (2012)	US$204b
GDP growth (2013)	6%
GDP per capita PPP (2013)	US$13,000 (estimate)
GDP composition by sector (9M2013)	Agriculture (5%); industry (29%); services (53%)
Public debt to GDP (9M2013)	21%
Labor force (9M2013)	9.076 million
Unemployment rate (9M2013)	5.2%
CPI inflation (% per year) (2013)	5.8%
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	Almaty, Astana, Karaganda, Shymkent, Atyrau, Aktau
Currency unit	Kazakhstan tenge (KZT)
Annual average exchange rate (2013)	US$1=KZT152.13; EUR1=KZT202.09; RUR=KZT4.78; CNY1=KZT24.75

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

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 rest of the regions. Astana and Almaty are six hours ahead of GMT and two hours ahead of Moscow.

Business hours

Kazakh offices are generally open from 9:00 a.m. to 6:00 p.m., Monday to Friday, and closed Saturdays and Sundays.

Public holidays and days off

The following table presents the official public holidays and days off in Kazakhstan.

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	Celebrated by the Islamic Calendar (4 October in 2014)
The First President of Kazakhstan Day	1 December
Independence Day	16-17 December

Time differences between Astana and selected cities during winter, hours

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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 regularly in recent years. It is therefore important that tax planning be robust, i.e., it can cope with changes in tax law and can be restructured without significant tax costs.
2. Corporate and individual income tax rates in Kazakhstan are low by international standards. However, penalties for non-payment and non-reporting, whether intentional or not, are high. The first focus of tax planning in Kazakhstan should be to ensure that all tax that ought to be paid in Kazakhstan is paid and reported. In addition, Kazakhstan is a documentation-driven place. Therefore, 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 (even sometimes when the recipient has never entered Kazakhstan). However, Kazakhstan has concluded tax treaties with many counties and it is possible therefore that withholding taxes can be reduced or avoided if transactions are arranged with such treaty countries and the payer has all of the necessary documentation in place. Otherwise tax will be withheld, and getting a refund may be an uncertain process. Moreover, Kazakhstan has a unique position in regard to transfer pricing: transfer pricing control potentially applies to all cross-border transactions regardless of whether the parties are in any way related or not.
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 taxable presence for corporate income tax (CIT) in Kazakhstan (a "permanent establishment") exists for a business dealing with Kazakhstan are very wide and can apply to whole groups of companies collectively if their total presence exceeds six months in country. Some, but not all, of Kazakhstan's tax treaties protect against this. Therefore, if using more than one group entity to do business with Kazakhstan, the position of all entities involved must be reviewed collectively.
6. The rules for determining whether a taxable presence exists for VAT are independent of the rules for CIT, and the penalties for breaches 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 to 1 debt equity ratio (7 to 1 for banks). An investor will at best pay 10% WHT on cross-border interest (based on a double tax treaty) and get at best a CIT deduction at 20%, while 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 would avoid a deemed taxable presence for an entity that seconds staff to work in Kazakhstan. 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 and also reduced by treaties. In the case of dividends the rate is zero after the investment has been held for three years (except for investments into oil and gas or mining, and except for dividends paid to tax haven registered entities).
10. Exemption from capital gains tax on exiting from an investment in Kazakhstan may in many cases be achieved, provided that the correct structuring is used when the investment is first made. How onerous the structuring would be depends on the nature of the asset.

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 performed in Kazakh tenge. Settlements between nonresidents (foreign legal entities and citizens) and Kazakh residents may generally be performed in any currency.
3. The range of business and professional activities that require a license 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 sophisticated process. Thus, it is important to plan this process well in advance.
5. Using "brass plate" legal addresses 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 aspects. In most cases, a company's representatives should have power of attorney for their actions 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 also may be used equally with Kazakh. English is not recognized as a legal language for official purposes. Thus, English documents will need to be translated. Where necessary, translations must be notarized.
9. For commercial contracts Kazakhstan does, generally, permit the use of foreign law as the governing one, except for subsoil use contracts with the state and foundation agreements of a Kazakh legal entity and agreements on transfer of participation shares in such a legal entity.
10. International arbitration is not usually available for contracts between Kazakh legal entities.

Should you need more information on any of these issues, EY would be happy to assist you with services 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

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Getting started

Arriving in Kazakhstan

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

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

The most popular visas are investor, business and work visas. These visas 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, and to participants in the Regional Financial Centre of Almaty City (RFCA) 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 obtain a work visa. See the *Work permits* section for details.

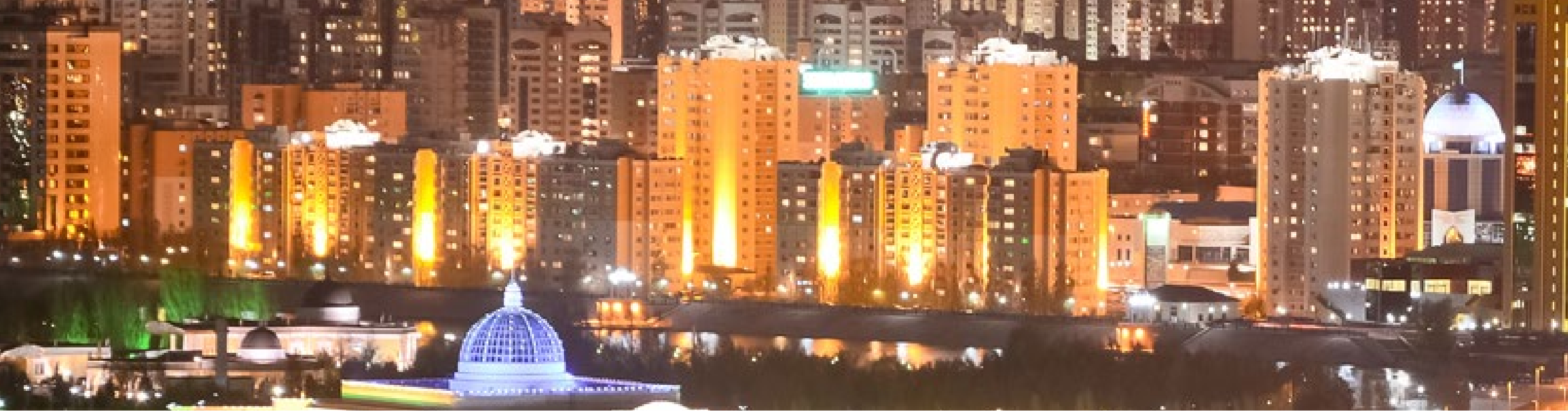
Business visas are issued to foreign individuals arriving in Kazakhstan for business purposes (e.g., business trip, negotiations, entering into contracts, provision of consultancy or audit services, participation in conferences, symposiums, forums, exhibitions, concerts, cultural, scientific, sport and other events).

In the territory of Kazakhstan, visas are issued by the Department of Consular Service of the Kazakhstan Ministry of Foreign Affairs (MFA) and abroad by Kazakhstan consular establishments (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 Department of Consular Service of the Kazakhstan MFA. The fee for issuing a visa ranges from US$1 to US$600, depending on the country of residence of the invited person and the type of visa sought. The term for issuance of a visa should not exceed five working days.

A letter of invitation is not required for a single entry diplomatic, official, business or private visa of certain categories nor for a single or double entry tourist visa for citizens of certain countries, such as Austria, Belgium, Great Britain, 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 Department of Consular Service of the Kazakhstan MFA.

Foreign individuals arriving in Kazakhstan are registered by making a registration record on their migration card, except for those coming under investor visas. These foreign individuals are registered by making a record in their passport. Depending on the visa category and ground for its issuance, the registration is made by the Kazakh consular establishment when issuing a visa, border control authority when crossing the border, or migration police within five days upon arrival of a foreign individual.

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



Types of legal entities

In accordance with the provisions of the Civil Code,[3] foreign and local investors may do business in Kazakhstan through a number of organizational and legal forms, including general partnerships, limited liability partnerships, partnerships with additional liability, commandite partnerships, joint stock companies (corporations) and representative and branch offices. Branches and representative offices of foreign legal entities are also common.

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

Limited liability partnerships (LLPs)

LLPs are very similar to joint stock companies. 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 debts of the LLP beyond the value of their contributions. The Civil Code provides a number of exceptions to this rule.

The minimum capital requirement for an LLP is 100 times the monthly calculation index (MCI)[4] (approximately US$1,200). For small-sized business entities the minimum capital requirement is KZT100 (approximately US$0.65). Participants' interests are proportional to their contributions to the charter capital unless the foundation documents provide otherwise. Participants have pre-emption rights on each other's interests.

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

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 liabilities. It may have one or more shareholders. The minimum capital required for a JSC is 50,000 times the MCI (approximately US$600,000).

Representative office

Kazakh law allows a foreign company to establish a representative office in Kazakhstan in order to represent its interests on the territory of 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. The representative office is not recognized as a separate legal entity.

Branch

A branch is a subdivision of a foreign legal entity that carries out all or part of the functions of the foreign entity 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). However, branches and representative offices must complete state registration.

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

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[3] The Civil Code of the Republic of Kazakhstan dated 27 December 1994 (with amendments as of 3 July 2013).

[4] The MCI was established by the Law of the Republic of Kazakhstan "On Republic Budget for 2014–2016." Starting from 1 January 2014 MCI is KZT1,852 (approximately US$12).

Establishing a legal presence

As a general rule, all legal entities, branches and representative offices in Kazakhstan are subject to state registration.

State registration

State registration in Kazakhstan is performed based on a "one-stop-shop" principle: all the registration documents should be submitted to one state authority, the Public Service Center (TSON). In accordance with the law on state registration, the procedure takes from 1 to 14 business days. In practice, the general registration term can take up to one month and even longer.

The legislation requires that a standard set of documents be submitted to complete the state registration of an entity. Having all the right documents is the key to a successful registration process. It is essential to ensure that the documents have been duly signed, sealed, notarized and legalized or apostilled if the documents are executed abroad,[5] otherwise the registration process may be considerably delayed.

The state registration fee is currently 6.5 times the MCI (approximately US$78).

As soon as the state registration has been completed, the entity should apply to obtain a seal from a local authorized company. Such an authorized company will design and produce a seal and register it with the Kazakh state authorities.

Location (legal address)

The location of a legal entity is the address indicated in its foundation (e.g. charter) documents. In accordance with Kazakh law, the location of a legal entity is the place of the legal entity's permanent operating body. The location plays an important part in a legal entity's registration and other legal events, such as identification of the court to which an appeal should be submitted (legal suit is filed according to the location) or tax authority through which the taxes and other payments to the budget will be paid.

For tax proposes, the actual address of a legal entity should be the same as its place of location. The tax authorities have a right to conduct tax inspections to confirm the actual location of a taxpayer at the place of location. If the tax authorities discover that a taxpayer is not present at the place of location, they may impose administrative actions against the taxpayer.

Opening a bank account – for companies and individuals

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

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

See the chapters on "Banking regulations" and "Currency regulations" for details.

Antimonopoly legislation

Acquisition of more than 25% of shares or participation shares in a legal entity in Kazakhstan (provided certain criteria are met) may be viewed by the Kazakh state authorities as activities leading to economic concentration, which require obtaining prior approval from the antimonopoly authorities. According to the recent practice of the antimonopoly authorities, creation of a legal entity with a potential purchase of more than 25% of shares or participation shares in such a legal entity is also treated as a transaction leading to economic concentration. In this respect, in the view of the state authorities potential participants or shareholders should obtain the consent of the antimonopoly authorities.

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[5] Requirement on legalization and apostillization is not applicable to documents executed in countries that are parties to the respective international treaties.

EY offers assistance in obtaining work permits.

Categories of labor immigrants, permits and secondment issues

The Law of the Republic of Kazakhstan *"On Migration of Population"* (the Law on Migration") adopted on 22 July 2011 establishes the following categories of immigrants arriving for labor activities:

- Foreign employees, i.e., immigrants attracted by employers to conduct labor activities in Kazakhstan
- Business immigrants, i.e., immigrants conducting entrepreneurial activities in accordance with the legislation of the Republic of Kazakhstan
- Seasonal foreign employees, i.e., immigrants attracted by employers to conduct seasonal work that is performed during a definite period (season) in view of the climate and other natural conditions, but for no more than one year

The Law on Migration establishes definite conditions for the arrival and stay in Kazakhstan of each of these categories of labor immigrants, including, among other things, (i) confirmation of financial solvency allowing them to leave Kazakhstan for their country of permanent residence upon expiration of their permits, (ii) information on previous convictions, (iii) medical confirmation allowing them to perform work in Kazakhstan in a particular specialty.

Work permits

Under the Kazakh migration and work permit legislation, there are two types of permits for conducting labor activities by foreign individuals in the Republic of Kazakhstan:

- Permit for attracting foreign labor (work permit)
- Permit issued to a foreign employee arriving in Kazakhstan for individual employment under a certain specialty (permit for employment). A list of such specialties is approved by the Government

It should be noted that the work permit must be obtained by an employer, whereas, the permit for employment should be obtained by the foreign employee. Only one document should be obtained for the work of a foreign employee in Kazakhstan, i.e., either a work permit or a permit for employment. These are not applicable to citizens of Russia and Belarus under the treaty between the Republic of Kazakhstan, Russia and Belarus "On the Legal Status of Labor Migrants and Members of Their Families" dated 19 November 2010 (the Treaty on Labor Migrants). However, this exemption for citizens of Russia and Belarus is not applicable if such individuals arrive in the Republic of Kazakhstan under a secondment arrangement. See the "Secondment issues" section on next page for details.

As a general rule, under Kazakh legislation, an employer hiring a foreign individual is required to obtain a work permit for such a foreign employee. In accordance with the current effective legislation of the Republic of Kazakhstan, internal affairs bodies (migration police) issue work permits for conducting labor activities in Kazakhstan.

However, in practice, work permits are still issued by the local executive bodies (Akimats). This rule is applied to all foreign employees except for those who are specifically exempt, such as heads of branches and representative offices of foreign legal entities and those on business trips, provided the business trips do not exceed, in total, 120 calendar days in one calendar year.

The Government sets an annual quota for work permits. Employers submit an application for a quota of work permits prior to 1 September of the current year for the next year. As a general 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 long and requires the 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), should comply with the ratio requirement between Kazakhstan local and foreign individuals.

Work permits are generally granted with several conditions imposed and monitored by the Akimats. The conditions are related to (1) training of Kazakh citizens under specialties of technical and professional education demanded on the local labor market in accordance with the list approved by the authorized body and (2) creation of additional work places for Kazakhstan citizens, etc.

There are penalties for violation of immigration rules, which may include monetary fines and deportation.

Secondment issues

Secondment of foreign personnel is currently a key topic on the Kazakh job market.

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

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

EY offers assistance with secondment issues, including:

- Help in drafting secondment agreements
- Support and advice on global immigration issues as well as obtaining the relevant permits and other documentation
- Assistance in managing tax and legal compliance for international assignees

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 asset 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 list of taxes that apply to it.

Individual income tax

Residents and nonresidents of Kazakhstan (receiving 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 having a permanent establishment in Kazakhstan and dividends from resident legal entities.

For tax purposes, foreign individuals are considered residents if they are present in the country for 183 or more days in any consecutive 12-month period ending in that year.

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

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

Double tax treaties[6] may provide different rules to determine residency.

Taxable income

The taxation of various types of income is described below.

Employment income

Income from employment consists of all compensation, whether received in cash or in kind, subject to minor exceptions, regardless of the place of payment of such income.

Self-employment and business income

The income of individuals engaged in self-employment activities (individual entrepreneurs) is subject to income tax.

Tax is levied on an individual's annual business income, which consists of gross income less expenses incurred in obtaining that income. However, to deduct expenses, individual entrepreneurs must be specially registered with the tax authorities and provide supporting documentation for such expenses. The tax rates for self-employment income are the same as those applicable to employment income as set forth in the "Rates" section, 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. Losses 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 below.

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

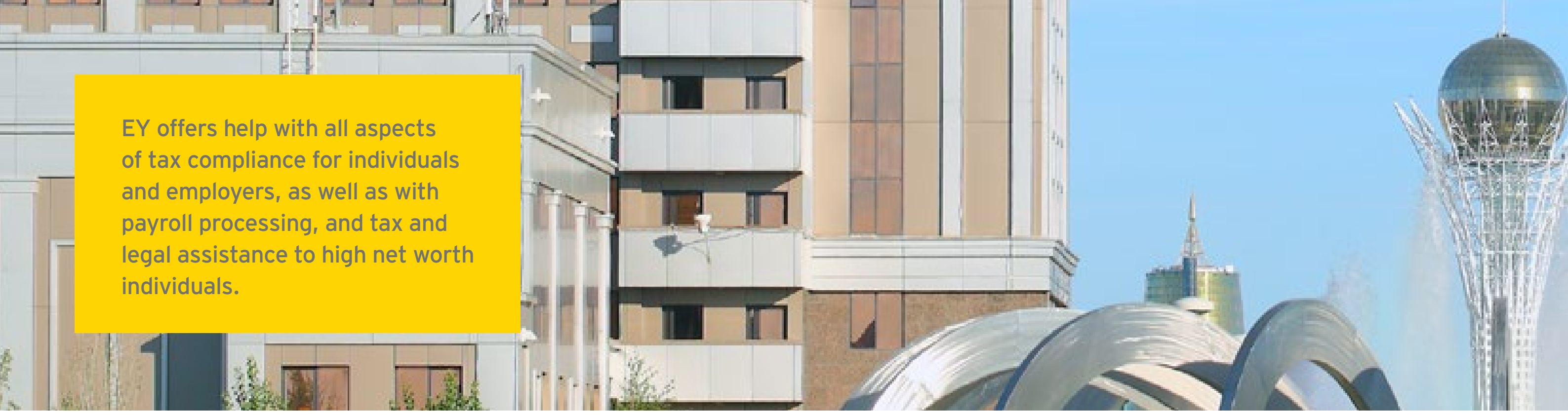
- Business trip per diems within established norms and reimbursement of certain business trip expenses
- Accommodation and meal expenses within established norms for rotating workers while they are at work sites
- The excess of the market value of the stock option at the time of the exercise over the exercise price of the option; the exercise price of the stock option is the price fixed in the relevant document based on which the stock option was granted to an employee

Exempt income

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

- Alimony
- Medical expenses within established norms
- Dividends and interest on securities that, at the time of the accrual of such dividends and interest, are on the official list of a stock exchange operating in the territory of Kazakhstan
- Dividends received from a resident legal entity where the shares or participating interests have been possessed for more than three years, provided that the legal entity is not a subsurface user (during the period for which dividends are paid) and 50% or more of the value of the assets of the legal entity at the date of payment of the dividends is comprised of assets of the entity that is not a subsurface user

[6] Please see 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 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. Capital gains derived from the open trade sale of securities listed on a stock exchange operating in Kazakhstan at the date of sale are exempt from the tax. Capital gains derived from sale of shares or participating interests that have been possessed for more than three years, provided that the legal entity is not a subsurface user and 50% or more of the value of the assets of the legal entity or consortium at the date of sale is comprised of assets of the entity that is not a subsurface user, are also exempt from tax.

Capital gain from the disposal of securities that were purchased by an individual through an option is the positive difference between the selling price and the purchase price. The purchase price should include the price of exercising an option and option purchase price.

Deductions

Personal deductions and exemptions
The minimum monthly salary (MMS)[7] for an employee determined by the Law on Republic Budget and effective on the date of income accrual for the corresponding month for which income is calculated is deductible from an employee's monthly salary. The total amount of tax deduction for the year should not exceed the total amount of the MMS determined by the Law on Republic 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 accumulative insurance agreements

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

Rates

The following tax rates are applicable to resident and nonresident individuals depending on 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	Dividends, interest, royalties paid to nonresidents by Kazakh legal entities	15%
6	Income of nonresidents registered in a tax haven	20%
7	Other income (non-employment) paid to nonresidents	20%

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

Tax registration of foreign individuals in Kazakhstan

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

- When opening bank accounts at 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 for foreigners. There are certain sets of documents to be submitted. The 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 should be responsible for withholding and remitting income tax from payments made to resident and nonresident individuals.

Under the withholding mechanism, a tax agent withholds and transfers to the state budget personal income tax, which should be remitted 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 contributions and social insurance contributions) on a quarterly basis by the 15th day of the second month following the reporting quarter.

[7] The MMS was established by the Law of the Republic of Kazakhstan "On Republic Budget for 2013–2015." Starting from 1 January 2013 MMS is KZT18,660 (approximately US$122).

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

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

- Individual entrepreneurs
- Private notaries and advocates
- Individuals who received property income
- Individuals who received income not taxed at the source of payment in Kazakhstan, including income outside Kazakhstan
- Individuals having funds in foreign bank accounts outside Kazakhstan

Kazakhstan tax nonresident individuals whose Kazakhstan-source income is subject to withholding in Kazakhstan have no obligation to file a Kazakhstan tax return.

The law provides for late payment interest, and fines for underreporting of taxable income, etc.

Social tax

Kazakhstan does not have social security as it is known in other countries. A social tax is payable by employers. However, this tax is an additional direct tax imposed on employers that is not earmarked for the social benefit of employees.

The taxable base for social tax is the employer's expenses in the form of employees' income.

Exemptions to social tax include, but are not limited to, the following:

- Compensation resulting from the liquidation of an organization or termination of the employer's activities, or from personnel or staff-size reductions
- 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, less 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 tax liability is reduced by the monthly amount of social insurance contributions (see *Social insurance contributions*).

For individual entrepreneurs (excluding entrepreneurs working under special tax regimes), private notaries and advocates (attorneys), the rate of social tax is two times the MCI (approximately US$24) for themselves and one MCI (approximately US$12) 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 the employer on a monthly basis. Income received in excess of 75 times MMS (approximately US$9,750) per month is not subject to obligatory pension fund contributions. Obligatory pension fund contributions are deductible for personal income tax and social tax purposes.

Starting from 1 January 2014 the Kazakhstan Law on Pension Coverage envisions obligatory professional pension fund contributions payable at the expense of the employer at a flat rate of 5% on the gross salaries of employees of certain professions in health-hazardous working conditions (mainly mining and metallurgy).

Social insurance contributions

Social insurance contributions at a rate of 5% are payable by employers on income paid to employees. Income in excess of 10 times the MMS (approximately US$1,300) is not subject to social insurance contributions per month. If income subject to social insurance contributions is less than MMS, the monthly base for social insurance contributions per employee should be MMS.

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

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 on their income from Kazakh sources. Nonresidents carrying out business in Kazakhstan through a permanent establishment (PE) are taxed on the profits of the PE, calculated in basically the same way as for residents. Nonresidents deriving Kazakhstan-source income not through a PE are taxed by withholding (see the "Withholding tax" section on next page).

Taxable income

Taxable income is calculated as the difference between aggregate annual income (AAI) with certain adjustments and statutory deductions. AAI includes practically all forms of income, including capital gains. Deductions generally include all expenses related to business activities and directed at the receipt of income, although a number of generally minor exclusions also apply. In addition to normal operating expenses, examples of expenses that are allowed for deduction include interest (within a thin capitalization limit and within actually paid), foreign exchange losses, representational expenses up to a limit of 1% of payroll subject to taxation, and charitable expenses (up to 3% of taxable income). This list is not exhaustive.

Losses from entrepreneurial activities and losses 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 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 IFRS accounts of the entity.

For tax depreciation purposes, fixed assets are split into four groups. Assets are depreciated at any rate (stated in the adopted tax accounting policy of the entity) up to the maximum depreciation rates set out in the following table:

Group	Type of fixed assets	Maximum depreciation rate
I	Buildings, structures (except for oil and gas wells and transmission devices)	10%
II	Machinery and equipment (except for machinery and equipment of 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, machinery and equipment of oil and gas production	15%

The following items are not considered as fixed assets:

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

Expenses actually incurred on 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 applied 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%. It is usually reduced by tax treaties.

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

As a general rule, all taxpayers (with certain exceptions) are subject to the CIT advance payment procedure, which requires taxpayers to estimate the tax liability for the year and pay the tax in installments monthly, not later that 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 to receive the benefits of tax treaties.

Payers

Tax agents withhold tax from the gross Kazakhstan-source income of a nonresident. 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 (except for insurance or reinsurance of risks), 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 Kazakhstan 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 exemption from Kazakh WHT or allow the reduction of WHT rates to 5%–10% provided that the treaty provisions are met. However, application of the benefits is also subject to rules in the Tax Code concerning documentary evidence. The rules are very specific as to the documentation required and it is recommended that the tax agent generally possesses it at the time payment is made if treaty relief is to be applied. Otherwise tax must be withheld in full and a refund could be claimed subsequently.

The payment of WHT is made by the tax agents. The general rules are:

- With respect to accrued and paid amounts, not later than 25 calendar days following the month when the payment was made
- With respect to accrued but not yet paid amounts, if they are deducted for corporate income tax purposes, not later than 10 calendar days following the deadline for corporate income tax return submission
- With respect to prepayment, not later than 25 calendar days after the end of a month in which income was accrued to the nonresident

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

EY offers the following services in the area of corporate income tax:

- Help with tax compliance of legal entities in 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 representation of taxpayers in court

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 tax payers registered for VAT purposes are required to charge 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 (or approximately US$360,000). Even if an entity is not required to register for VAT purposes, it may usually do so voluntarily by submitting an application to the appropriate tax committee.

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

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 goods, work and services from non-registered nonresidents. There are a limited number of non-taxable and exempt supplies that 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 or anything that is done for consideration and is not a supply of goods.

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

Goods and services are subject to VAT if, under the 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 deem some supplies that are made outside of Kazakhstan such as consultancy to be made inside Kazakhstan and so to be taxable.

Zero rating

Turnover taxable at a zero rate includes:

- Export sales of goods
- International transportation services

Exempt supplies

Turnover and imports exempt from VAT include:

- Turnover associated with residential buildings
- Defined 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
- Import of certain assets, the list of which is generally approved by the Government

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

VAT offset

VAT paid on services and goods purchased by a VAT payer (i.e., input VAT), including reverse-charge VAT already paid and VAT paid at customs, should generally be available for offset (credit) when determining a taxpayer's VAT liability to the budget. However, offset is not available for VAT incurred for the purpose of making supplies that are either exempted or deemed to be supplied outside of Kazakhstan.

VAT calculation and VAT offset carry-forward

The VAT liability of a taxpayer is calculated as output VAT (i.e., VAT charged by a taxpayer) less input VAT (i.e., VAT paid by a taxpayer to its suppliers) in a reporting period.

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

Non-recoverable input VAT

Input VAT is not allowed for offset if it is paid in connection with the receipt of the following:

- Goods, work, and services not related to taxable turnover
- Passenger cars that are 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

VAT registration

VAT registration is separate from the tax registration that occurs as part of the "one-stop shop." The deadline for the registration is within 10 business days of the end of the month in which the turnover threshold is exceeded.

VAT rate and compliance

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

Reverse-charge VAT

Under the place of supply rules, certain services are deemed to be supplied at the location of the business activity of the purchaser of services. These services include: consulting, audit, engineering, design, marketing, legal, accounting, advocacy, advertising, information processing services, provision of personnel, lease of movable property, 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.

The obligation to pay the reverse-charge VAT will be on the Kazakh purchaser of the services, which should be allowed to offset the amount of the reverse-charge VAT paid against output VAT, subject to the general offset procedure.

Customs Union

The Tax Code contains certain procedures and monthly compliance requirements for import of goods to Kazakhstan from the Customs Union countries (Russia and Belarus).

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 the full range of tax appeal services, including litigation.

Subsoil use taxes

Please refer to EY's *Kazakhstan oil and gas tax 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. Many taxpayers are audited, and it is vital to manage the tax audit process.

Tax returns

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

Tax audits

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. Generally, tax audits can be intrusive and time-consuming and sometimes may even result in a seizure of documents and investigations of violations by the financial police.

Assessments

Upon completion of a tax audit, the tax authorities usually issue a tax audit act. (If no violations of the tax legislation are discovered, an appropriate note is made in the tax audit act.) On the basis of the results recorded in the act, the tax authorities issue a "notification" on the assessed amounts of taxes and other obligatory payments to the budget, and related penalties and interest.

Appeals

Taxpayers have the right, within deadlines, to appeal acts of the tax authorities to a higher body of the tax authorities or the court.

Penalties and interest

The Code of Administrative Violations establishes administrative penalties for non-compliance with tax regulations. The Code imposes administrative penalties for tax non-compliance, including the following:

- Under-declared taxes: 30%–50% of the under-declared tax amount
- Understatement of advance corporate income tax payment by more than 20%: penalty of 40% of the understated tax
- Failure to withhold taxes: 30%–50% of the non withheld tax
- Concealment of taxable items: 150%–200% of taxes to be paid on the concealed amount

Interest is applied to late tax payments at 2.5 times the official National Bank annual refinancing rate (currently 5.5%) of the unpaid tax for each day of delay.

In addition, the concept of criminal liability with respect to taxes is applied in Kazakhstan. A criminal violation by an organization is generally perceived to occur when the tax amount misreported exceeds 20,000 MCI (or approximately US$240,000). Such violations can result in investigation by the financial police and even in prosecution of individuals who are held to be responsible for violations.

Tax rulings

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

The tax authorities usually provide their opinion on specific tax queries in the form of a letter. However, such letters are only of an advisory character and do not have full legal force. Generally, such letters can be canceled or recalled.

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.

The transfer pricing rules potentially apply to all cross-border transactions regardless of whether the parties are in any way related. In the case of subsurface users, it also applies to domestic transactions if they are related to cross-border transactions.

The law allows for the following methods of determining a market price:

- Comparable uncontrolled price method
- Cost plus method
- Subsequent resale price method
- Profit split method
- Net margin method.

There is no "safe harbor" allowed in terms of deviation from a market price, although 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 the transactions is tainted by association with a tax haven.

EY's services in the field of transfer pricing include reviews to detect significant transfer pricing risks, development of transfer pricing policies, and performance of transfer pricing studies. We can help companies conclude agreements on the application of transfer pricing with the tax authorities, as well as providing assistance in tax audits, dispute resolution, and preparation of transfer pricing documentation and monitoring reports.

Employment regulations

The currently effective Labor Code was adopted in 2007 and codified legislative acts related to labor relations. The Labor Code regulates labor relations of residents and nonresidents in the territory of Kazakhstan.

An employment agreement must be concluded with each employee. The agreement should reflect rights, obligations and guarantees of an employee established by the Labor Code. As a general rule, an employment agreement cannot worsen or limit the rights of an employee established by the Labor Code.

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

Under the Labor Code, an employer is responsible for proper execution of an employment agreement. Employment agreements may be made for a fixed or indefinite term. An employment agreement may establish a probation period that cannot exceed three months.

Kazakh law establishes a MMS requirement. A 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 established by 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 after or up to 70 days in case of complication and for those with two or more children).

According to Kazakh legislation, an employer is obliged to insure employees from accidents during performance of their labor (official) responsibilities within 10 working days of the date of the state registration of the employer.

EY offers employment law services including preparation of standard legal documents and consultancy on performance and reward planning.

Import and export formalities and customs duties

Customs regulations of Kazakhstan

On 1 July 2010, the territory of Kazakhstan became part of the unified customs territory of the Customs Union with Russia and Belarus, which envisages unified customs legislation, tariff and non-tariff regulations of importing goods from third countries and free movement of goods of the Customs Union within the territory of the Customs Union. The Customs Union establishes various types of customs procedures for customs clearance of goods including release of goods for internal consumption, temporary import, reimport, customs warehouse, duty free shops, transit of goods, export of goods and other customs procedures.

On 1 July 2011, the customs control of goods of the Customs Union crossing the border between Russia and Kazakhstan was cancelled. However, border and passport controls are still in effect.

Customs duties and classification of goods

The Unified Customs Tariff for goods imported from third countries came into effect on 1 January 2010. The Unified Customs Tariff determines the rates of customs duties and classification of goods. According to the Unified Customs Tariff, the rates of customs duties, which are normally based on percentage of the customs value of goods, can generally vary from 0% to 35%.

However, with respect to certain types of goods that are imported into Kazakhstan, there are transitional provisions that envisage lower customs duty rates for the transitional period from 2010 to 2015.

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

Since 1 July 2010, the customs value of goods is determined based on the Agreement on Determination of Customs Value concluded between the Customs Union member states, which applies to goods crossing the border of the Customs Union.

Some customs procedures envisage full or partial exemption from customs duties. Also, there are certain kinds of non-tariff regulations, such as limitation or prohibition of import or export of goods.

Common Economic Space

On 1 January 2012, the Common Economic Space came into effect within the Customs Union member states, which envisages free movement of goods, work, services, capital and labor forces within the Customs Union territory and establishes common regulation of economic policy, currency, antimonopoly and other economic relations.

Licensing

There is a list of activities that are subject to licensing in Kazakhstan. The range of business and professional activities that are subject to licensing is very broad. It is vital for investors to determine if they need a license beforehand. The penalties for not having licenses can be significant.

A license is a permit granted by a competent state body (licensor) to an individual or a legal entity for performing certain types of activities.

Depending on the activity, licenses are divided into the following types:

- General license – granted for unlimited period and for various activities
- One-time license – granted for a limited period and for a specific operation, as well as in the areas of gambling activity and house construction activity that is made at interest-holders' cost

Licenses for engineering and construction activities are divided into three categories depending on the complexity of objects to be engineered and/or constructed. Obtaining first and second category licenses requires 10 and 5 years of experience, respectively, in engineering and construction.

Licenses in the areas of export or import are distinguished as follows:

- General license – granted to a participant in external economic activity by the Customs Union's member-state for export or import of certain goods
- Exclusive license – granted to a participant in external economic activity for exclusive export or import of certain goods
- One-time license – granted to a participant in external activity based on a foreign trade agreement that provides the right for export or import of goods

There are also operational licenses that are issued for banking and insurance operations.

EY offers advisory services on tax and legal aspects of import, export, transit and other customs procedures.

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 the central bank.

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

Foreign banks have operated in Kazakhstan since 1993. Although these banks are not allowed to establish branches in Kazakhstan, they may establish wholly owned Kazakhstan subsidiaries.

The legislation also provides provisions on Islamic banking activities. The main difference is that Islamic banking does not participate in the deposit guarantee system. Special provisions on creation of Islamic banking are determined in the legislation of the Republic of Kazakhstan.

Licensing

Banking operations are subject to licensing by the NBK. In addition to licensing, activities that include cash operations, safe-deposit box operations and collection of bank notes, coins and values are subject to mandatory approval by the NBK.

Currency regulations

The currency legislation involves some formal requirements, but it does not impede most international business operations.

The currency legislation distinguishes the following parties to currency transactions:

- Residents of Kazakhstan, 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 representative offices of Kazakhstan abroad
- Nonresidents, i.e. (i) foreign citizens and stateless persons, foreign legal entities, their branches and representative offices, (ii) international organizations, and (iii) diplomatic and other official representative offices of foreign states in Kazakhstan

The currency legislation states that transactions between residents and nonresidents can be made in any currency. However, transactions among residents should only be made in tenge, the national currency of the Republic of Kazakhstan.

Individuals (residents and nonresidents) are allowed to bring cash foreign currency not exceeding the equivalent of US$10,000 in and out of the country without declaration with provision of data validating the source of this amount.

The currency legislation sets out two main regimes of currency regulation: registration and notification on currency transactions.

Registration

Generally, registration of currency operations should be done before performing any obligations by either party to the agreement.

The following types of currency transactions may be subject to registration with the NBK by residents:

- Commercial credits on export or import of goods for a period of over 180 days
- Direct investments of nonresidents in Kazakhstan and residents abroad
- Financial loans for a period of over 180 days
- Payments by residents to nonresidents, as well as payments by nonresidents in favor of residents, related to the acquisition of the full exclusive right to objects of intellectual property, or payments related to transfer and receipt of money and other property by residents in lieu of an obligation of a party to a consortium

Also, in the case of import or export of goods to and from the Republic of Kazakhstan there is a requirement to register each contract by obtaining a record registration number from the authorized bank prior to transferring goods through the border of the Republic of Kazakhstan. Record registration is required in certain cases, provided goods' value as of the date of the contract's conclusion exceeds the equivalent of US$50,000.

Notification

The notification regime may require a notice to be given to the NBK of certain types of currency transactions, for example:

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

Please note that these currency transactions are subject to registration or notification if the sum of the transaction exceeds the established threshold.

It should be noted that, in the majority of cases, registration or notification regimes presume further submission of reports on currency transactions to the territorial divisions of the NBK.

EY in Kazakhstan

In 1992, EY was the first international professional services network of firms to open an office in Kazakhstan. Our firm in Kazakhstan is part of our EMEIA 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 best 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 creating new growth opportunities in today's dynamic economic environment.

Our major services

- Assurance
- Tax & Law
- Transactions
- Advisory
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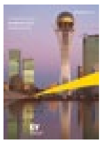
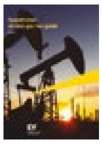
Publications



Kazakhstan attractiveness survey 2013

Compensation and benefits survey in Kazakhstan



Kazakhstan oil and gas tax guide

Rapid-Growth Markets Forecast

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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	Malaysia	10	10	10
25	Moldova	10/15 (b)	10	10
26	Mongolia	10	10	10
27	Netherlands	5/15 (a)	10	10
28	Norway	5/15 (a)	10	10
29	Pakistan	12.5/15 (a)	12.5	15
30	Poland	10/15 (c)	10	10
31	Romania	10	10	10
32	Russian Federation	10	10	10
33	Singapore	5/10 (b)	10	10
34	Slovak Republic	10/15 (d)	10	10
35	Spain	5/15 (a)	10	10
36	Sweden	5/15 (a)	10	10
37	Switzerland	5/15	10	10
38	Tajikistan	10/15	10	10
39	Turkey	10	10	10
40	Turkmenistan	10	10	10
41	Ukraine	5/15 (b)	10	10
42	United Kingdom	5/15 (a)	10	10
43	United States	5/15 (a)	10	10
44	Uzbekistan	10	10	10
45	Non-treaty countries	15 (e)	15 (e)	15 (e)

(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 30% of the payer. The 15% rate applies to other dividends.
(e) For payments to entities registered in tax havens (per the list of countries with preferential tax regimes), the rate is 20%.

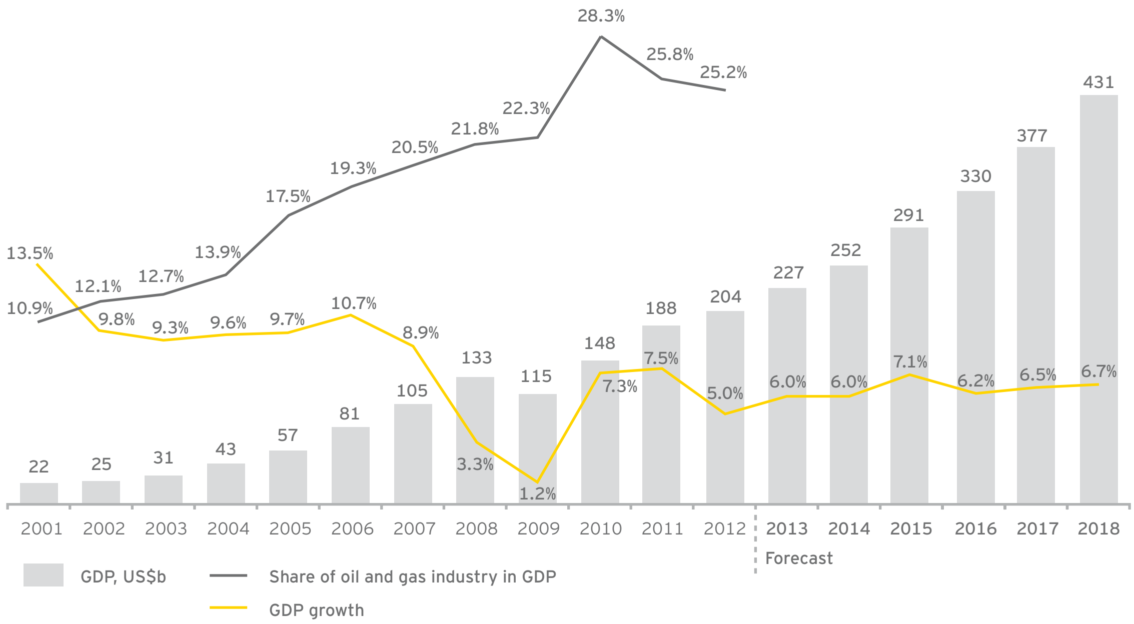
NB: The treaties with Luxembourg and the United Arab Emirates have been ratified. Official information on the dates of entry into force was not available at the time of writing this publication.

List of countries with preferential tax regimes

Approved by the Decree of the Government of the Republic of Kazakhstan № 1318 dated 31 December 2008 (amended on 1 September 2010 and on 23 July 2012).

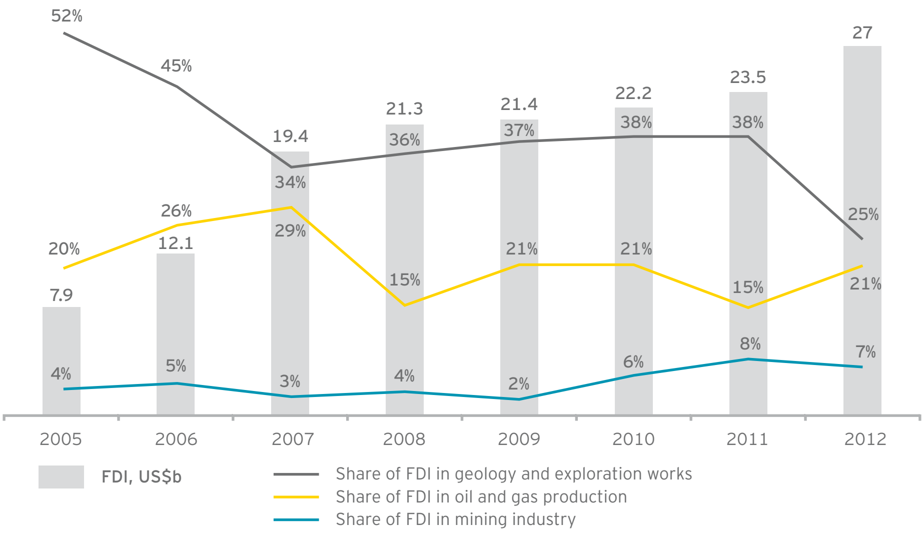
1. The Principality of Andorra
2. The State of Antigua and Barbuda
3. The Commonwealth of the Bahamas
4. The State of Barbados
5. The State of Bahrain
6. The State of Belize
7. The State of Brunei Darussalam
8. The Republic of Vanuatu
9. Co-operative Republic of Guyana
10. The Republic of Guatemala
11. The State of Grenada
12. The Republic of Djibouti
13. Dominican Republic
14. The Commonwealth of Dominica
15. The Republic of Ireland (only in part of special administrative regions Dublin, Shannon)
16. The Kingdom of Spain (only in part of the Canary Islands)
17. The Republic of Cyprus
18. People's Republic of China (only in part of special administrative regions Aomyn (Macao) and Siangan (Hong Kong))
19. The Republic of Colombia
20. The Federal Islamic Republic of Comoros
21. The Republic of Costa Rica
22. Malaysia (only in part of the enclave Labuan)
23. The Republic of Liberia
24. The Lebanese Republic
25. The Principality of Liechtenstein
26. The Grand Duchy of Luxembourg
27. The Republic of Mauritius
28. The Islamic Republic of Mauritania
29. Portugal (only in part of Madeira Islands)
30. Republic of Maldives
31. The Republic of the Marshall Islands
32. The Principality of Monaco
33. The Republic of Malta
34. Mariana Islands
35. The Kingdom of Morocco (only in part of the city of Tangier)
36. The Union of Myanmar
37. The Republic of Nauru
38. The Kingdom of the Netherlands (only in part of the Aruba Islands and the dependent territories of the Antilles)
39. The Federal Republic of Nigeria
40. New Zealand (only in part of the Cook Islands and Niue)
41. United Arab Emirates (only in part of the city of Dubai)
42. The Republic of Palau
43. The Republic of Panama
44. Independent State of Samoa
45. The Republic of San Marino
46. The Republic of Seychelles
47. The State of Saint Vincent and the Grenadines
48. The Federation of Saint Kitts and Nevis
49. The State of Saint Lucia
50. [excluded by Governmental Decree dated 23 July 2012]
51. United Kingdom of Great Britain and Northern Ireland (only in part of the following areas):
    1) The Anguilla Islands
    2) The Bermuda Islands
    3) The British Virgin Islands
    4) Gibraltar
    5) The Cayman Islands
    6) Montserrat Island
    7) The Turks and Caicos Islands
    8) Isle of Man
    9) The Channel Islands (Guernsey, Jersey, Sark, Alderney)
    10) South Georgia Island
    11) South Sandwich Islands
    12) Chagos Island
52. United States of America (only in part of the following areas):
    1) US Virgin Islands
    2) Guam
    3) The Commonwealth of Puerto Rico
    4) The Wyoming State
    5) The Delaware State
53. The Republic of Suriname
54. United Republic of Tanzania
55. The Kingdom of Tonga
56. The Republic of Trinidad and Tobago
57. Sovereign Democratic Republic of Fiji
58. The Republic of the Philippines
59. The Republic of France (only in part of the following areas):
    1) The Kerguelen Islands
    2) French Polynesia
    3) French Guiana
60. The Republic of Montenegro
61. [excluded by Governmental Decree dated 1 September 2010]
62. The Democratic Republic of Sri Lanka
63. Jamaica

GDP of Kazakhstan 2001–18



Source: Agency on Statistics of Kazakhstan, the Ministry of Economy and Budget Planning of Kazakhstan.

FDI in Kazakhstan 2005–12



Source: National Bank of Kazakhstan (according to the new methodology announced in 2013).

Key macroeconomic indicators of Kazakhstan 2003–13

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
GDP growth	9.3%	9.6%	9.7%	10.7%	8.9%	3.3%	1.2%	7.3%	7.5%	5.0%	6.0%
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*
KZT/US$ annual average exchange rates	149.58	136.04	132.88	126.09	122.55	120.30	147.50	147.35	146.62	149.11	152.13
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
Inflation rate	6.8%	6.7%	7.5%	8.4%	18.8%	9.5%	6.2%	7.8%	7.4%	6.0%	5.8%

* Estimation

Source: Agency on Statistics of Kazakhstan, the National Bank of Kazakhstan.

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