

Taxation in Kazakhstan

Constitutional Principles

As required by the Constitution of Kazakhstan, within the tax system of Kazakhstan, any taxes, levies, and other obligatory payments may be established only by the laws enacted by the Parliament of the Republic of Kazakhstan.

Parliament may not delegate its constitutional powers to establish the tax system, taxes or levies, and sanctions for tax violations to the government or any other authority.

Under the Constitution, laws in general and tax laws in particular enter into effect after the President signs them.

Tax System

Tax legislation of the Republic of Kazakhstan consists of the Tax Code and Normative Legal Acts, and is regulated by International Agreements.

Tax legislation is based on the principles of the mandatory nature of payment of taxes and other mandatory payments to revenue, certainty and equity of taxation, unity of the tax system and publicity of tax legislation.

The Tax Code of the Republic of Kazakhstan establishes Kazakhstan taxes, levies, and general tax principles.

Such taxes as corporate income tax, value added tax, personal income tax, and excise taxes account for the largest portion of budget revenues.

The tax period for a corporation and an individual is a calendar year.

Filing Deadlines

Corporations shall file corporate income tax returns by March 31 of the year following the tax period.

Individuals shall file individual income tax returns by March 31 of the year following the taxation year.

Often it is possible to have an extension to the filing deadline granted by the tax authorities for both corporations and individuals. However, all estimated outstanding taxes must be paid by the filing deadlines.

Installment Payments

Various rules are in place for both corporations and individuals on submitting tax installments.

Interest and Penalties

Interest is assessed for each overdue day of taxes. It is charged at 1.5 times the refinancing rate set by the National Bank of the Republic of Kazakhstan (approximately 13.5% at the current rate).

Penalties of up to 50% of delinquent taxes may be applied.

Tax Jurisdiction

Legal entities incorporated in Kazakhstan, excluding the National Bank of Kazakhstan and State institutions, are normally treated as tax residents and are taxable on their worldwide income. Legal

entities incorporated abroad are normally treated as nonresidents and are taxable on income from Kazakhstan sources or on income from carrying on business in Kazakhstan.

Taxation of Resident Entities

1. Taxable Income

Resident entities are taxable on their worldwide income received or accrued within a reporting period (calendar year) at the 30% basic tax rate. The amount of taxable income is determined by subtracting deductible expenses and deductions on fixed assets from gross income.

2. Gross Income

Gross income of a resident legal entity is defined as income received in Kazakhstan and outside of its borders within the tax period.

The following items are specifically included within gross income:

- income from the sale of goods or services;
- income from the sale of buildings and other assets which are not subjects to amortization;
- income from debts written-off;
- income from rent;
- income from reduced provisions of banks;
- income from assignment of debt;
- income received for consent to limit or cease entrepreneurial activity;
- income from the excess of the disposed fixed assets over the balance value of the subgroup;
- income from the excess of amounts from closing operations over the actual expenses;
- compensated deductions;
- property, performed work, or rendered services on a gratuity basis;
- dividends;
- interest income;
- exchange rate gains;
- winnings; and
- royalties.

The following items are specifically excluded from gross income:

- dividends received from resident companies;
- gain from excess of value of treasury stock over face value from sale of treasury stock;
- gain from the sale of stocks and obligations, which qualify as A and B lists on the Kazakhstan Stock Exchange;
- yield of operations with government securities;
- value of property received as a humanitarian assistance in case of emergency;
- value of fixed assets received by a state enterprise from a state institution on the basis of a decision of the Government of the Republic of Kazakhstan; and
- investment income received in accordance with the pensions legislation and allocated to personal pension accounts.

3. Deductible Expenses

Any current business related expenses are deductible unless such deduction is restricted or disallowed by the Tax Code.

The following items are specifically included in deductible expenses:

- compensation for goods or services by the taxpayer to be used in its business;
- any expenses in connection with interest and assessments;
- any current expense in connection with scientific, project and other researches; and
- foreign exchange losses.

Deductibility of the following items of expenses is specifically disallowed:

- expenses not connected with receipt of aggregate annual income;
- expenses on construction and acquisition of fixed assets and other capital expenses;
- fines and interest payable to the budget;
- expenses connected with receipt of aggregate annual income, exceeding the limits allowed for deduction as set by the Tax Code;
- other obligatory payments to budget payable in amounts exceeding the norms of legal acts of the Republic of Kazakhstan;
- expenses on construction, use and maintenance of objects not used in business activity; and
- value of property transferred, work performed, and services rendered by a taxpayer on a gratuity basis.

4. Deductibility of Interest

Interest incurred by a taxpayer on loans in Kazakhstan is deductible within 1.5 times of the National Bank of the Republic of Kazakhstan refinancing rate. In USD it must be within 2 LIBORS.

Further limitations are as follows (on all interest irrespective of whether in tenge or US dollars):

Deductible interest paid/payable to a resident and interest paid/payable to a non-resident with holding tax rate / corporate income tax rate.

This additional limitation is not applied to financial institutions.

5. Tax Accounting Rules

Under domestic tax accounting rules, tax items are normally recognized on the accrual method. Under this method, income is recognized in the reporting period when such income is earned and expenses are recognized when incurred.

The tax year corresponds to the calendar year. Tax returns on CIT are filed yearly and payable on a monthly basis. An annual tax return must be filed by 31 March of the year following the tax year.

6. Net Operating Loss Carry-Forward

Business losses, including losses arising from disposal of buildings, structures or constructions used in the business of a taxpayer may be carried forward for up to three years and utilized against future taxable income.

In the case of activity carried on under mineral agreements, losses may be carried forward for up to seven years.

Losses arising from the sale of securities other than the stock of public companies qualifying as A and B stock on the Kazakhstan Stock Exchange may be carried forward up to three years.

Taxation of Nonresident Entities

1. Tax Jurisdiction of Nonresidents

Nonresident entities are subject to taxation on income received from Kazakhstan sources (non-business income) and on income derived from carrying on business in Kazakhstan (business income).

2. Taxation of Non-Business Income

Income received by a nonresident entity from Kazakhstan sources is normally subject to withholding taxation in Kazakhstan, provided that such income is not attributable to a permanent establishment in Kazakhstan.

3. Kazakhstan Source Income

For withholding tax purposes, the following items of income are treated as received from Kazakhstan sources:

- income received from the sale of goods, work performed, and services rendered in the territory of the Republic of Kazakhstan;
- income received from managerial, financial, consultation, auditing, marketing, legal, agency, and information services rendered to residents or nonresidents in connection with activity in the Republic of Kazakhstan through permanent establishment regardless of where the services are rendered;
- income from dividends received from a resident legal entity, and from share equity of a resident legal entity;
- income in the form of remuneration (interest) received from residents or a person having a permanent establishment or property in the Republic of Kazakhstan, if indebtedness of this person is related to his permanent establishment or property;
- income in the form of royalties which arises from selling, exercising or transferring the right to use rights or property in the Republic of Kazakhstan;
- income received from immovable property located in Kazakhstan;
- income in the form of insurance payments made under agreements on insurance or reinsurance against risks in Kazakhstan;
- income from telecommunications or transport services in the international communications or transportation between Kazakhstan and other countries;
- income from capital gains received as a result of sales of property located in the Republic of Kazakhstan; and
- other income not covered by the previous points, which arises from activities in Kazakhstan.

4. Withholding Tax Rates

The following withholding tax rates normally apply to the following items of income from Kazakhstan sources payable to nonresidents, provided that such income is not attributable to a nonresident's permanent establishment in Kazakhstan:

Item of Income from Kazakhstan Sources	Tax Rate
Dividends, income from equity share and remuneration	15%
Insurance payments made under risk insurance contracts	10%
Insurance premiums made under risk re-insurance contracts	5%
Income from international transport services	5%
Most other items of income from Kazakhstan sources	20%

5. Taxation of Business Income

Income of nonresident entities derived from carrying on business in Kazakhstan through a permanent establishment is subject to taxation under the same rules as income of Kazakhstan residents.

Therefore, if a nonresident entity carries on business in Kazakhstan through a permanent establishment situated therein, its income attributable to activities or assets of such permanent establishment (attributable or business income) is subject to taxation in Kazakhstan on a net basis at the 30 percent rate.

6. Permanent Establishment

The term permanent establishment is defined in the Tax Code as a permanent place of a taxpayer's activities through which it conducts fully or in part business activities, including activities performed through an authorized person.

Under domestic tax laws, entrepreneurial activities carried out through authorized agents instructed from the headquarters and remunerated for their work, lead to the formation of a permanent establishment. While use of an independent agent's activity does not cause the formation of a permanent establishment.

Transfer Pricing Rules

Under the Tax Code, the tax treatment of transaction between related persons is subject to special rules. These rules are established by the law On State Control in Transfer Pricing Application. These rules apply to cross-border transactions.

The term related person includes any person, who controls a taxpayer, is controlled by a taxpayer or is under common control with the taxpayer. One person is treated as controlling the other entity if that person participates in the other entity and if the share of such participation is not less than 10% of the equity of that entity.

Other transactions may also be caught under the transfer pricing rules. These transactions include: barter transactions, transactions concluded with entities in preferential tax regimes, concluding transactions with loss companies, and concluding transactions with a price deviation of more than 10% from market prices established by the Kazakhstan government.

Penalties and interest may be applied against these transactions.

Taxation of Cross-Border Transactions

Since resident entities are taxable on their worldwide income in Kazakhstan and may also be taxable by foreign states on their income derived from sources or from carrying on business in such states, the same income is potentially subject to double taxation.

In order to avoid such double taxation, Kazakhstan in its double tax treaties uses a foreign tax credit method. Under this method, foreign taxes paid by a resident taxpayer on foreign source income may be credited against its Kazakhstan tax liabilities on such foreign source income.

Excess foreign tax credit may not be offset against the resident taxpayer's Kazakhstan tax liabilities on any domestic source income, nor can they be carried forward or backwards.

Double Tax Treaties

Kazakhstan has double tax treaties with more than 30 countries, which generally follow the OECD Model Income Tax Convention.

Personal Income Tax

Individuals resident in Kazakhstan are subject to personal income taxation on their worldwide income. Nonresident individuals are subject to taxation only on income from Kazakhstan sources.

An individual is considered to be a resident of Kazakhstan for personal income tax purposes if he or she permanently resides or has center of vital interests in this country.

An individual is considered to permanently reside in Kazakhstan:

- if he or she is present in Kazakhstan for no less than 183 days during any consecutive 12-month period ending during the current tax period, or
- **if days of presence in Kazakhstan during the current and two prior tax periods equals 183 days or more; days of presence are calculated using the following coefficients:**

- number of days present in the current tax period;
- 1/3 – number of days present in the first preceding tax period;
- 1/6 – number of days present in the second preceding tax period.

An individual is not considered a resident if he or she is present in Kazakhstan for less than 30 days in the current tax period.

An individual may consider center of vital interests Kazakhstan by virtue of citizenship, residency permit; family and close relatives living in Kazakhstan; ownership of immovable property.

Individual income tax rates vary within a range between 5 and 30%.

Resident individuals are taxable on their worldwide income, i.e., on income received both from domestic and foreign sources. Income is taxable irrespective of whether it is received in cash or in-kind.

If a resident individual receives benefits in-kind, the amount of taxable income is determined on the basis of the fair market value of the property, services or other benefits received.

The following benefits received by a resident individual are specifically excluded from personal income taxation:

- any social help, alimony payments, payments to military, pension payments and certain other types of payments;
- income from operations with state securities, gains from sale of stocks and obligations;
- gifts and inheritance income;
- income of public servants of a foreign state, income of diplomatic or consular officers not residents of the Republic of Kazakhstan;
- expenses of employers directed towards education or qualification of employees;
- reimbursement of trip, property transportation, rent of housing expenses incurred for the transportation of an employee to another location;
- certain insurance payments; and
- certain other types of income not mentioned above.

Foreign citizens, who are tax residents of Kazakhstan, are taxable on income received within Kazakhstan as well as on income received outside its borders.

Non-resident foreign citizens are taxable only on income received from Kazakhstan sources regardless of whether the payment is made in Kazakhstan or not.

Resident foreign citizens are taxable for personal income tax (PIT) purposes in the same manner and at the same rates as that which applies to the citizens of Kazakhstan; they must submit the income declaration to the local tax authorities by 31 March of the year following the reporting year.

Non-resident foreign citizens, obtaining income from Kazakhstan sources but receiving it outside its borders, make monthly PIT installments. They also are responsible for estimating PIT for that installment and making their payments based on these estimates.

Value Added Tax

1. Taxable Transactions

Value added tax (VAT) is imposed (a) on the supplies of goods or services, if the place of supply is regarded to be Kazakhstan, and (b) on the importation of goods or services.

VAT is levied at a 16 percent rate of the taxable amount for domestic and import transactions, and at zero percent rate for exported supplies; confirmation and documentation of exported supplies and works and services connected with international traffic is required.

2. Exempt Transactions

Some transactions, including the following, subject to the conditions established by the Tax Code, are exempt from VAT:

- certain sale turnovers;
- certain turnovers connected with land and housing resources;
- certain banking, insurance / reinsurance and certain other financial services;

- property transferred to financial leasing (interest portion only);
- services rendered by non-profit organizations;
- exploration works;
- services in the sphere of culture, science and education;
- goods and services in the sphere of medical and veterinary activity; and
- sale of enterprise.

3. Taxable Persons

Any legal entity or natural person whose income on sale turnover exceeds minimum turnover which is 10,000 times of monthly calculation index which is in the tax period is required to register as a VAT taxable person.

During the importation of goods persons who import the goods to the territory of Kazakhstan according to the Customs legislation are VAT taxpayers.

4. Taxable Amount

For any taxable domestic transaction, VAT is chargeable on the basis of value of goods and services that are being sold as determined from prices and tariffs applied during the transaction.

Normally, the tax basis for VAT is the selling price. However, it may be adjusted according to transfer pricing, for gratuitous transfers, or for any consideration other than money (in-kind consideration); in these cases, VAT is assessed on the fair market value of goods or services supplied as determined by the tax authorities.

In the case of the importation of goods, taxable supply includes customs value of goods imported, determined by the customs legislation of Kazakhstan, as well as the value of any other mandatory payments to the budget imposed by the reason of importation (except VAT).

5. VAT Administration

VAT on domestic supplies is administered by the tax service, while VAT on the importation of goods is administered by the customs service.

Any taxable person should assess the amount of VAT to be remitted to the budget by reducing (crediting) its output VAT liability (VAT collected on outward taxable supplies) with input VAT credit (VAT paid or incurred on acquired taxable supplies and import supplies).

VAT on imported goods is payable by an importer in cash at customs border. A taxpayer responsible for paying import VAT may defer such payment for three months in case these goods are water, gas and electric power, or in the case of goods imported for further industrial processing.

6. VAT Credit

Any input VAT incurred by a taxpayer on inward domestic supplies and imported supplies is creditable against its output VAT liabilities provided that such input VAT was incurred:

- in connection with the acquisition of supplies, the cost of which is either immediately deductible or depreciable / amortizable for CIT purposes; and
- in connection with supplies intended to be used in such person's taxable outward supplies.

If input VAT is incurred in connection with the acquisition of supplies, cost of which is neither deductible nor depreciable / amortizable for CIT purposes, such VAT is neither creditable nor deductible / amortizable for CIT purposes.

7. Tax Refunds

Since export supplies are zero rated, any taxable person making supplies for use or consumption outside of Kazakhstan may claim as a credit its input VAT incurred in connection with exported supplies.

Although the excess credit is refundable, there exist very strict requirements for such refunds. In practice, such requirements make VAT refunds very difficult to obtain.

Payroll Taxes

Salary or similar compensation payable to employees payable by Kazakhstan entities or located in Kazakhstan branches or other structural subdivisions of foreign companies as consideration for employment services are subject to the following payroll taxes:

Payroll Tax	Tax Rate (%)	
	Employer's contribution (to be accrued by the employer on the amount of compensation paid)	Employee's contribution (to be withheld by the employer from the amount of compensation paid)
social tax	21% (11%)	-
pension contribution	-	10%
Social tax at a rate of 11% applies to salaries compensations payable to white-collar expatriate employees.		

Excise Duty

Excise duty is imposed on taxable items produced in, or imported into, Kazakhstan as well as on certain types of activities.

Excise duty is imposed on alcohol and tobacco products, motor fuels, diesel, motor vehicles, salmon and sturgeon roe, firearms, crude oil and jewelry. Excise duty is also imposed on gambling businesses and lotteries.

Customs Legislation of the Republic of Kazakhstan

Introduction

There have been significant changes in social and economic situations in the Republic of Kazakhstan (RK) since its independence. New conditions have dictated new rules and thus legislation has been constantly evolving.

Currently, customs regulation is based on laws that came into effect on July 20, 1995. Some significant changes have been made since the introduction. Even with all these changes the existing law is still in need of change. Currently the Ministry of Revenue (the Ministry) is drafting a new Kazakhstan Customs Code. According to Minister of State Revenues, Mr. Kakimzhanov, the objective of the new customs code is to improve customs law, eliminate inconsistent provisions, and ensuring that the rights

of importers are recognized. Drafting of the new Customs Code is based upon research conducted by the Ministry through a questionnaire distributed to 10,000 participants involved foreign economic activities in different regions of Kazakhstan.

They hope to improve customs regulation by:

- giving full description of the procedures;
- clearing lists of the documents required for different procedures;
- simplifying the procedures for documentation in the context of customs control;
- eliminating contradictions;
- providing conditions for bona fide participants of foreign economic activities; and
- eliminating existing loopholes to stop abuses from customs employees.

The Ministry intends to decrease customs duties; they propose that all duties are around 10-15%.

Until the customs code is passed, the old customs law remains in force.

Customs law in the RK regulates procedures and conditions of transferring of goods and equipment through customs borders, levying customs fees and duties, customs registration, and customs control.

Customs Regimes

The Customs law establishes 15 customs regimes, as summarized below:

1. **Goods released for free circulation.** This regime is for imported goods consumed or permanently remaining in the customs territory of the RK. It is applied after the goods pass customs procedures (registration, taxation and other payments, currency control and etc.)
2. **Re-imported goods** is used when domestic goods were exported, and then re-imported within 3 years. No duties or tariffs are applied on such goods under this regime. Also all customs and other payments paid on export are refunded.
3. **Transit of goods** means that they are transported through the territory of the RK to another foreign country without the application of any duties and payments.
4. **Customs warehouse** regime is assigned for storage of goods imported under customs control duties, taxes etc. are not be applied.
5. **Duty-free shop** regime is applied for goods imported in the customs territory of the RK free of customs duties taxes and other payments; and sold under customs control in airports, harbors, frontier junctions, airplanes, etc. with the condition that these goods would be transported outside of the RK.
6. **Goods processed in customs territory.** This regime allows the processing of imported goods without the application of duties and other payments and the return of any payments if the processed products are exported outside of the RK.
7. **Goods processed under customs control** regime is applied for goods processed in a customs territory until the following release to free circulation or another regime. No customs or other payments are paid under this regime.
8. To apply the usage of goods fully or partially exempt from customs duties in the customs territory of the RK the regime **Temporary import and export of goods** was created. Temporary import or export means a period of 2 years or less from the date of import or export of goods.
9. and 10. **Free customs zone** and **Free warehouse** regimes, according to which foreign goods are placed and used in relevant territorial borders or premises (places) without withholding of customs duties, taxes and non-tariff payments. Domestic goods receive the same treatment as is below Export of goods.
11. **Goods processing out of customs territory** regime is applicable for domestic goods to export and use outside the customs territory of the RK for purposes of processing and subsequent release of processed products into free circulation in Kazakhstan with full or partial exemption from duties and taxes.
12. **Export of goods** regime is used as it follows from the title when goods are to be brought outside of the RK.
13. **Re-export of goods.** As per this regime, foreign goods are re-exported from the customs territory of the RK without payment or with return of import duties taxes and non-tariff payments.

14. **Destruction of goods** regime is applied when goods are destroyed (or made unusable) under customs control without any duties and payments. There some types of goods, which should not be destroyed, like goods, which can be used as raw materials; goods, which have artistic, historic, archeological, etc. value; extinct animals; pledged goods, etc.
15. When an entity or an individual refuses goods in favor of the state, the customs regime of **Rejection in favor of state** is applied. No customs payments of any type are applicable in this case.

A person or legal entity has a right to choose any of the listed customs regimes or change it to another, regardless of characteristics, quantity, country of origin, date of arrival and purpose of goods or equipment as long as the entity meets the criteria under the regime.

Individuals not registered as entrepreneurs in accordance with Kazakhstani legislation cannot import or export goods exceeding limits under regimes mentioned above except for regimes of temporary import and export of goods.

In the section below we will to focus on the Temporary import and temporary export of goods regime as it is one of the most used regimes.

Temporary Import, Temporary Export of Goods

As it was mentioned above, **the purpose** of the Temporary import, temporary export regime is to allow usage of goods in the customs territory and outside of the RK with full or partial immunity from customs duties, taxes and other payments.

The Customs Legislation provides the regime with **requirements** that temporary imported or exported goods are subject to restitution in original state, except for changes due to natural wear-and-tear or losses during normal transportation, storage and use.

Also the following conditions should be followed according to the regime:

- Provision of obligation on export/import of goods;
- Provision of identification of goods;
- Payment of customs fees and taxes according to customs law; and
- Avoid the use of temporary imported or exported goods for business purposes (this point does not relate to temporary imported and exported goods with the full exemption from customs fees and taxes and also to equipment).

Resolution No. 342 as of March 25, 1996 On some issues of how to apply the customs regime of temporary import (export) of goods provides for the list of goods disallowed for temporary import or export, as listed below:

- Expendables, samples, raw material, spare parts and components (if not intended for temporary imported vehicles);
- Food, beverage, including alcohol drinks, tobacco (exception when they imported for advertising purpose in single unit);
- Goods that have import or export quotas; and
- Industrial waste.

The maximum **period** the goods are considered temporary imported or exported is two years from the moment of import or export. However, for some categories of goods central custom bodies can establish shorter or longer periods.

Rules on preferential regime for the transference of goods by individuals as of May 31, 2001 list some cases of full exemption from customs duties:

- Import/export of goods that have their origin in one of the Customs Union* countries and not assigned for the manufacturing or other commercial activity in Kazakhstan by citizens of these countries.

- Import/export of goods that have their origin in third countries and not assigned for commercial activity in Kazakhstan with the total value of not more than \$1,000 and weight of not more than 50 kilos per person; and
- Import/export of goods by persons immigrating for the permanent citizenship.

For citizens of Customs Union preferential regime is valid in the presence of the documents confirming permanent residence in the territory of one of countries-participants of Customs Union and the documents confirming member country – origin of the goods.

In first and second cases, the declaration of goods can be conducted orally, in the third case the simplified written form is used.

Goods can be temporarily imported **by individuals** through the borders of Kazakhstan if they need these goods for personal use. List of the goods basically includes personal things and jewelries, domestic appliances, mobile phones, cars and trailers. Import/export is allowed under the preferential regime according to purpose and other conditions and for the period not exceeding the period of person's residence in the territory of the country.

Conclusion

The custom regulation is represented not only by the law On Customs Affairs but other laws, edicts and resolutions of the government as well. The acts of central customs bodies e.g. orders, rules, instruction, letters are the source of customs rights.

The customs law is at the developing stage because independent practice of the Kazakhstani customs service is small and there are constant changes.

Customs Privileges for Goods Exported from or Imported in the Republic of Kazakhstan

Common Types of Goods

Kazakhstani customs legislation provides privileges for specific types of goods being the subject of export or import. These privileges may be granted in the form of full or partial exemption from customs duties and taxes. Article 149 of Law “On Customs Affairs” envisages that the following goods are fully exempted from customs duties:

- National currency and securities, including mortgage certificates, consignments, warrants, etc.
- **Humanitarian aid goods, except excisable goods. To obtain an exemption from customs duties, these goods should be supported by the like documents:**
 - Transport and/or shipping documents and/or documents of the embassy or consulate or the representative office of an international organization confirming the status of imported goods.
 - Documents confirming the fact of gratuitous transmission of goods, including those documents prepared in foreign languages.
 - Obligation of a beneficiary to use goods only for the purpose of improvement of life conditions of population, executed in a specified form.
- Goods, except excisable, imported in or exported from the Republic of Kazakhstan by states, international organizations as gratuitous aid, charity, technical assistance. These goods should be supported by shipping documents and/or their status should be confirmed by embassies, consulates, offices of international organizations and relevant agreements (e.g. the project contract under which technical assistance goods were imported).
- Goods purchased at the expense of grants provided by states and international organizations. The basis for exemption is submission of the notarized copy of a grant provision contract and shipping documents pertaining to such contract.
- Non-excisable goods purchased at the expense of state foreign loans. The Ministry of Finance of the Republic of Kazakhstan provides customs authorities with confirmation on such purchases with the reference of a number and date of a loan agreement.
- Goods transmitted through Kazakhstani frontier under the “re-import”, “transit”, “customs warehouse”, “duty free shop” and other customs regimes regulated by the Law.
- Goods transmitted through the frontier by individuals within the norms of duty-free transmission stipulated by the Government.

The above goods, except those transmitted under listed customs regimes or by individuals, are not subject to the customs clearing procedure.

Privileges for Investors

Law “On Customs Affairs” stipulates the types of goods imported by investors in Kazakhstan which are exempted from customs duties.

Equipment and spare parts imported in Kazakhstan as a contribution of a foreign investor to the charter capital of an enterprise with foreign participation, as well as personal property of foreign employees of such enterprises, branches and representative offices of foreign legal entities, are exempted from customs duties.

Exemption from customs duties is granted, if the cost of equipment and spare parts does not exceed the amount of a contribution of a foreign investor to the charter capital, and such

equipment is imported within the period of forming the charter capital which period lasts one year as of the registration date.

Equipment and spare parts imported after this period for the purposes of expansion of production, without a relevant increase of the charter capital, are subject to normal customs duties.

Exemption from customs duties requires an investor to provide the following supporting documents:

- Notarized copies of the Charter and registration certificates of an enterprise with foreign participation;
- Written confirmation, signed by the general manager and chief accountant, of import of equipment and spare parts;
- Documents, including those written in foreign languages, which confirm the contribution of equipment and spare parts to the charter capital;
- Obligations of a beneficiary to use equipment and spare parts only as a contribution to the charter capital executed in the prescribed form and auditor's conclusion as at the moment of full generation of charter capital; and
- Auditor's conclusion on the amounts of the generated charter capital, as at the time the equipment and spare parts have been imported;

Personal property of foreign staff of enterprises with foreign participation or branches and representative offices of foreign companies, also require documents for exemption from customs duties, listed below:

- Written application to the name of the head of a customs body on import or export of personal property of foreign staff;
- Notarized copies of employer's registration documents; and
- Copies of personal documents of a foreign employee, including the permit to work in Kazakhstan.

Exemption of Goods Imported by Subsurface Users

Most of investments in Kazakhstan is made into the fast growing mining industry and, therefore, subsurface users are also provided favorable import conditions. Goods imported for the internal use by subsurface users under their contracts, stipulating oil operations and signed by authorized state bodies, are subject to exemption from customs duties. The exemption is granted based on these contracts or special instructions on taxation of such activities.

Import of Equipment and Materials within the Investment Project

The contract signed between an investor and the authorized state body shall be the basis for full or partial exemption of equipment and materials (except alcohol and tobacco products and goods imported for sale without processing) imported within the investment project. Notarized copies of these contracts and contract registration certificates shall be submitted by the authorized state investments organization to the customs body providing the clearance.

Sale of Goods Imported Duty-Free

Sale of goods imported with the above privileges into the territory of the Republic of Kazakhstan is possible after payment of customs duties and taxes from which these goods were exempted when importing and after observance of other requirements.

