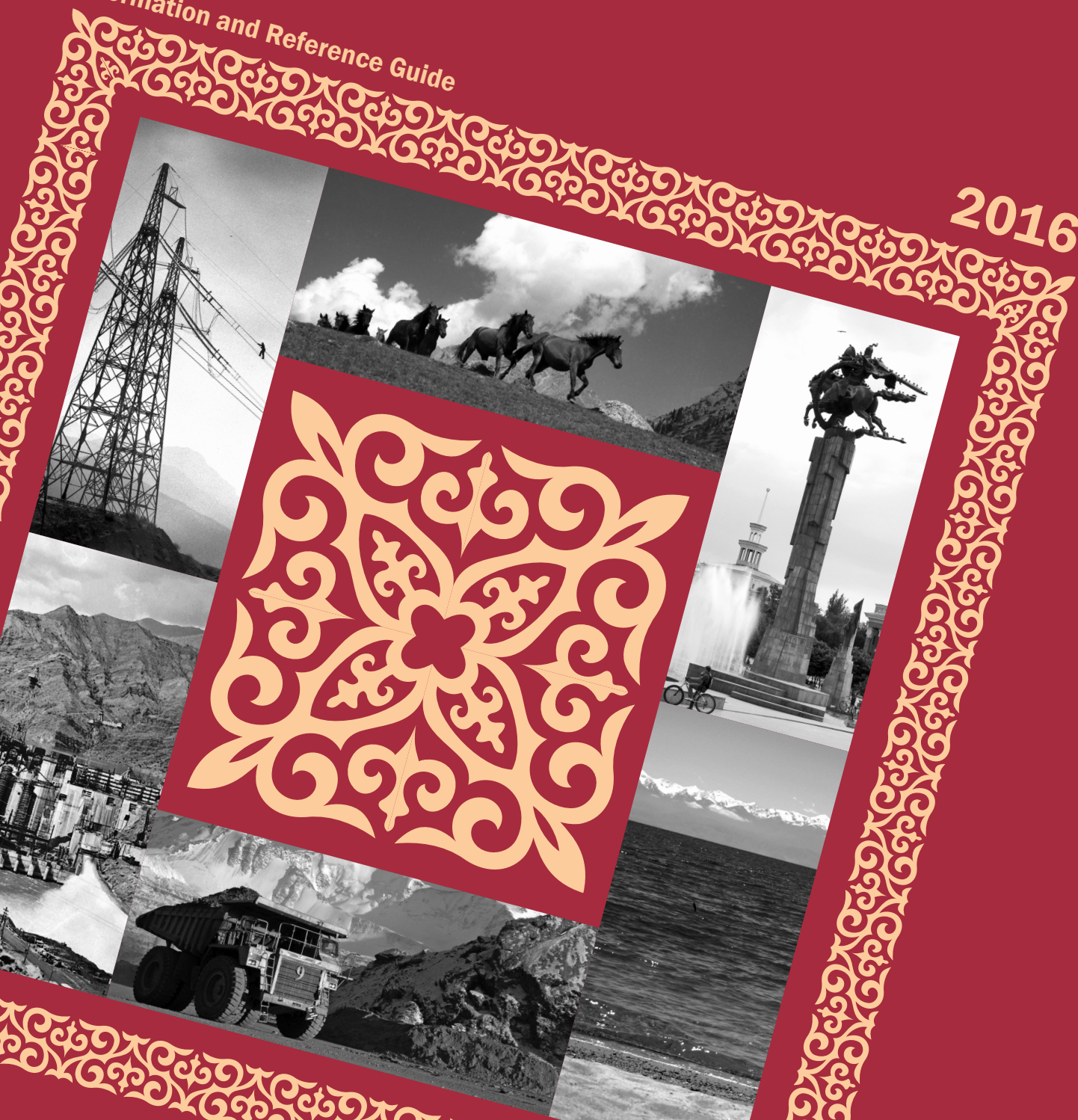


# BUSINESS IN THE KYRGYZ REPUBLIC:

LEGAL ASPECTS

Information and Reference Guide

2016





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Information and Reference Guide

As of November

**2016**

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## **FOREWORD**

### **Dear Reader,**

This information and reference guide (updated yearly) covers the legal aspects of doing business in Kyrgyzstan. This publication was requested by our customers, whom, having entered the market of this country, frequently faced issues related to starting and running their business in Kyrgyzstan, for instance, investor protection, tax and licensing requirements, and many other regulation areas. This document represents an attempt to answer many of these questions, but, more importantly, it is an attempt to create a useful guide for those who are interested in doing business in Kyrgyzstan.

This guide was prepared by our entire team of lawyers practicing in various areas of commercial law and whom, consult with companies engaged in the following fields: mineral resources exploration and mining law, banking and finance, energy law, telecommunications, hotel business, construction and real estate and a number of other sectors of economy. We are constantly increasing our abilities and professionalism and this publication is evidence of our continuous search for new possibilities of professional growth.

We thank our readers and want to emphasize that our collective efforts have originated not only from our eagerness for professional growth, but also from our desire to make this country more open to businesses. We sincerely wish Kyrgyzstan to prosper, and this publication is a contribution of our company's professional team towards a better future for Kyrgyzstan.

This publication is also accessible for the worldwide audience on our website:  
[www.k-a.kg](http://www.k-a.kg).

**Yours respectfully,**

**Kalikova & Associates**

## 1. KYRGYZSTAN: AN OVERVIEW

### 1.1 Geography

The Kyrgyz Republic is located in Central Asia and has an area of 199 thousand square kilometres, or 77,540 square miles. This landlocked nation stretches 900 km east to west and 410 km north to south.

The Kyrgyz Republic is a mountainous country with 94.2% of its territory located 1,000 metres and 40.8% located 3,000 metres above sea. The average height above sea level is 2,750 metres, the highest point is 7,439 metres, and the lowest point is 401 metres<sup>1</sup>. The Kyrgyz Republic borders Kazakhstan to the north, Uzbekistan to the south-west, Tajikistan to the south, and China to the east and south-east<sup>2</sup>.

The climate is continental; air temperature varies from -40°C in the winter to +40°C in the summer. The landscape includes all natural zones common for the northern hemisphere, except the tropics. The republic is one of the 20 countries with the richest water resources in the world.

By its administrative and territorial system the Kyrgyz Republic belongs to unitary states and consists of 7 oblasts (Regions), (Chui, Issyk-Kul, Talas, Naryn, Jalalabat, Osh and Batken) and 2 cities of national status (Bishkek and Osh). The capital of the Kyrgyz Republic is Bishkek.

### 1.2 History

The first states appeared within the territory of the present-day Kyrgyz Republic in the 2nd century B.C. The most ancient historical documents on Kyrgyz statehood were written by a well-known Chinese historian and chronicler Sim Xian that dates back to 201 B.C.<sup>3</sup>

By the late 7<sup>th</sup> to early 8<sup>th</sup> century A.D. the Kyrgyz people had become a significant force respected by the powerful nations of Central Asia, and by the fourth decade of the 9th century they founded a vast nomadic empire known as the Kyrgyz Kaganate. The traditional and cultural background of the Kyrgyz people and the ethnonym “Kyrgyz”, which is interpreted by the Kyrgyz people themselves as “forty maidens”, each a traditional ancestress of a family line, support the assumption that the Kyrgyz Kaganate consisted of 40 tribes.

Between 1870 and 1880 the territory of Kyrgyzstan became part of the Russian Empire. In 1918, Kyrgyzstan became part of the Turkestan Autonomous Soviet Socialist Republic of the Russian Soviet Federative Socialist Republic. As a result of the State Division of Soviet Central Asian Republics, in 1924, the Kara Kyrgyz (since 1925 – Kyrgyz) Autonomous Region was established within the Russian Soviet Federative Socialist Republic; in 1926, the territory was transformed into the Kyrgyz Autonomous Soviet Socialist Republic within the Russian Soviet Federative Socialist Republic, and in 1936 – into the Kyrgyz Soviet Socialist Republic within the Union of Soviet Socialist Republics<sup>4</sup>.

In 1991, Kyrgyzstan proclaimed itself an independent and sovereign state known as the Republic of Kyrgyzstan, and since the 5<sup>th</sup> of May, 1993, it has been officially named as the Kyrgyz Republic.

<sup>1</sup> <http://www.welcome.kg/ru/news/443.html>

<sup>2</sup> [http://kyrgyzstan-tourism.com/index.php?option=com\\_content&task=view&id=80&Itemid=90](http://kyrgyzstan-tourism.com/index.php?option=com_content&task=view&id=80&Itemid=90)

<sup>3</sup> [http://mfa.kg/common/about-kyrgyzstan\\_ru.html](http://mfa.kg/common/about-kyrgyzstan_ru.html)

<sup>4</sup> Kyrgyz Statehood. Century Statistics. Bishkek, 2003.



### 1.3 Population and Language

At the beginning of 2015 the number of permanent population of the Kyrgyz Republic was 5,895,062 people (men – 2,916,971, women – 2,978,091)<sup>5</sup>. Where, the number of urban population was 1,986,740 people (men – 941,522, women – 1,045,218), and the number of rural population was 3,908,322 people (men – 1,975,449, women – 1,932,873).

There are about 90 different nationalities in the Kyrgyz Republic. At the beginning of 2015, native population, the Kyrgyz, accounted for 72.8%, the Uzbeks – 14.5 %, the Russians – 6.2 %, the Ukrainians – 0.2%, the Germans - 0.1%, the Tatars – 0.5%, the Kazakhs – 0.6, the Armenians – 0.0 %, the Tajiks – 0.9%, the Azerbaijanis – 0.4%, the Chechens – 0.0%, the Belarusians – 0.0%, the Georgians – 0.0%, the Lithuanians – 0.0%, the Moldavians – 0.0%, the Latvians – 0.0%, the Turkmen – 0.1%, the Estonians – 0.0%, the Jews – 0.0%, the Uighurs – 0.9%, the Dungans – 1.1%, the Koreans – 0.3%, the Turks – 0.7%, other nationalities – 0.7%.

The number of population by age is as follows:

- 0 to 4 years – 752,957
- 5 to 9 – 590,172;
- 10 to 14 – 505,039;
- 15 to 19 – 527,422;
- 20 to 24 – 578,214;
- 25 to 29 – 565,211;
- 30 to 34 – 440,277;
- 35 to 39 – 364,783;
- 40 to 44 – 332,158;
- 45 to 49 – 306,723;
- 50 to 54 – 293,620;
- 55 to 59 – 229,842;
- 60 to 64 – 153,090;
- 65 to 69 – 91,627;
- 70 to 74 – 50,846;
- 75 to 79 – 59,453;
- 80 to 84 – 29,433;
- 85 to 89 – 17,996;
- 90 to 94 – 4,668;
- 95 to 99 – 1,227;
- 100 and more years of age – 304.<sup>6</sup>

The national language of the Kyrgyz Republic is Kyrgyz, while the official language is Russian. Both languages are being used on equal terms and are employed for administrative purposes; however, under the legislation of the Kyrgyz Republic<sup>7</sup>, the Kyrgyz version of a document is considered to be its original version. In its official relations with foreign nations (receptions, meetings, development and ratification of documents) the Kyrgyz Republic uses the national language, while in relations with the CIS countries it also uses the official language.

<sup>5</sup> The six-millionth resident was born on November 25, 2015.

<sup>6</sup> <http://www.stat.kg/ru/statistics/naselenie/>

<sup>7</sup> The Law of the Kyrgyz Republic "On National Language of Kyrgyz Republic" of 2<sup>nd</sup> April, 2004.

## 1.4 Links to Other Countries

The relatively small size of the country makes travel within it easy. A flight from the north to the south of the country lasts about one hour.

The total length of roads in the Kyrgyz Republic is 34,000 km, including 18,810 km for general use roads maintained by the road units of the Kyrgyz Ministry of Transport and Communications and 15,190 km roads of cities, villages, agricultural, industrial and other enterprises.

The Kyrgyz Republic has signed bilateral interstate agreements on international road communications with 19 states, among which are all the CIS countries as well as Germany, Iran, China, Latvia, Mongolia, Pakistan, Poland, and Turkey<sup>8</sup>.

The railway transportation system of the Kyrgyz Republic is fairly well developed. This is explained by the mountainous relief of the country. At the same time, the country has a reasonably good transit capacity.

### Transit Possibilities:

Kyrgyzstan has signed air communications agreements with 26 countries of the world. However, regular air communications are maintained only with 11 countries.

- Cities of the Kyrgyz Republic are connected by direct air flights to the following countries and cities: Russia (Moscow, Saint Petersburg, Yekaterinburg, Krasnoyarsk, Novosibirsk, Omsk), Tajikistan (Dushanbe, Hudjent), Uzbekistan (Tashkent), Kazakhstan (Astana, Almaty), Armenia (Yerevan), Turkey (Istanbul), Iran (Teheran, Meshed), Pakistan, China (Beijing, Urumqi), India (Delhi), the United Arab Emirates (Dubai), South Korea (Seoul, Incheon), and Great Britain (London).
- Roads provide access to all neighbouring countries (Uzbekistan, Tajikistan, Kazakhstan, and China).
- There is no developed railway system within the territory of the Kyrgyz Republic. Thus, there is no railway line between the north and south of the country. Nevertheless, the Kyrgyz Republic does have a railway connection to Uzbekistan and Kazakhstan.

### Mail and Cargo Delivery

Both state-owned and private providers of these services are active in the market of the Kyrgyz Republic – 7 mail companies are currently operating<sup>9</sup>. Thus, Kyrgyzpochtasy (Kyrgyz Post) state enterprise provides services of regular and express mail, including delivery of parcels and packages by land and by air, international express mail services, and services of postal money orders within the country and around the world. Representation offices and licensees of international companies DHL, FedEx, UPS, TNT Express, and local companies Interpost, Kyrgyz Courier, and a number of others, provide express mail services.

<sup>8</sup> <http://www.mtc.gov.kg>

<sup>9</sup> <http://mtc.gov.kg/page/27.html>

## The Internet

There are a broad variety of options for Internet access; they range from dial-up to wired broadband and Wi-Fi access and satellite-based Internet. Leading service providers include EICat, AsialInfo, Kyrgyztelecom, Aknet, Saima Telecom, WinLine, and a number of others.

## Mobile Telecom Services

At the moment, mobile services in the local market are provided by:

- GSM standard mobile services network operated under **Beeline** brands and offering roaming services in 182 countries;
- CDMA20001X standard mobile services network operated under **Fonex** trademark and offering roaming services in 2 countries;
- GSM standard mobile services network operated under **MegaCom** brand and offering roaming services in 196 countries;
- GSM standard mobile services network operated under O! <sup>TM</sup>.

## 1.5 Political System

The political system of the Kyrgyz Republic is defined in the Constitution<sup>10</sup>. According to separation of powers principle set forth in the Constitution, the state power of the Kyrgyz Republic is represented by legislative, executive, and judicial branches cooperating under the rule of the President of the Kyrgyz Republic.

- The President is the head of state and the top official of the Kyrgyz Republic elected for a period of 6 years.
- The Jogorku Kenesh – Parliament of the Kyrgyz Republic – is a representative body in charge of legislature. The Jogorku Kenesh of the Kyrgyz Republic consists of 120 Parliamentarians elected for the term of 5 years on a proportional basis.
- The executive power of the Kyrgyz Republic is represented by the Government of the Kyrgyz Republic, line ministries, state committees, other executive authorities and bodies of local state administration subordinate to the Government.
- In the Kyrgyz Republic judicial power may only be administered by the courts. In the cases and pursuant to the procedure provided by law, all citizens of the Kyrgyz Republic have the right to participate in the implementation of justice.

## 1.6 Judicial System

The judicial system of the Kyrgyz Republic is represented by the Supreme Court of the Kyrgyz Republic, and local courts. The Constitutional Chamber operates within the Supreme Court of the Kyrgyz Republic. Judicial power is executed through constitutional, civil, criminal, administrative, and other forms of proceeding.

<sup>10</sup> Constitution of the Kyrgyz Republic adopted on June 27, 2010.

It should also be noted that in the Kyrgyz Republic there exist courts of arbitration courts which resolve civil disputes out of court. However, there is no separate law on international commercial arbitration. An award is enforceable under a writ of execution issued by the state court. In addition, the state court may order provisional measures in the legal cases reviewed by the permanent court of arbitration.

**General jurisdiction courts** have the following system:

- Courts of primary jurisdiction are district level courts, district courts of Bishkek city, city courts, military courts of garrisons and inter-district courts. All of them consider and resolve the disputes falling within their jurisdiction on their merits.
- Courts of appellate jurisdiction are region (Oblast) level courts, Bishkek City court and the Court Martial of the Kyrgyz Republic. Each of these courts consists of three judicial divisions: division for criminal cases and cases of administrative violations, division for civil cases, and division for administrative and commercial cases. Judicial divisions of appellate jurisdiction courts revise judicial acts that have not come into legal force. These divisions also act as a cassation instance revising judicial acts that have come into legal force.
- The supervisory level – the Supreme Court of the Kyrgyz Republic, consisting of the Plenary Assembly and 3 respective divisions within which, benches of 3 judges are formed to consider cases at law.

Constitutional surveillance is carried out by the Constitutional Chamber of the Supreme Court of the Kyrgyz Republic.

### **Enforcement of Judgment**

Under the legislation of the Kyrgyz Republic<sup>11</sup> the power to enforce decisions, rulings, and resolutions on civil, commercial, administrative cases, as well as sentences, rulings, and resolutions on criminal cases in the part of property claims, rests with the enforcement officer of the court.

In the Kyrgyz Republic, the judicial system includes the Judicial Department of the Kyrgyz Republic, which is the agency tasked to provide material, technical and methodological support to local courts. It also ensures the enforcement of judgments and other acts provided by law and to carry out other activities aimed to create favourable conditions for the full and independent administration of justice.

The Kyrgyz Republic is a party to a number of international treaties under which an interested party may address a claim to a court of the Kyrgyz Republic on recognition and enforcement of a decision issued by a court or arbitration court of another country. The principal treaties are:

- UN Convention on Recognition and Enforcement of Foreign Arbitral Awards of 10<sup>th</sup> June 1958, joined by the Kyrgyz Republic in 1995;
- Convention on Legal Support and Legal Relations between the CIS Countries on Civil, Matrimonial, and Criminal cases of 22<sup>nd</sup> January 1993, ratified by the Kyrgyz Republic in 1995. In 2004 the Kyrgyz Republic also ratified the Convention on Legal Support and Legal Relations on Civil, Matrimonial and Criminal Cases of 7<sup>th</sup> October 2002<sup>12</sup>;

<sup>11</sup> The Law of the Kyrgyz Republic "On enforcement proceedings and the status of enforcement officers in the Kyrgyz Republic" dated March 18, 2002 No. 39 (with the latest amendments as of March 13, 2015).

<sup>12</sup> The 2002 Convention has superseded the 1993 Convention. However, the 1993 Convention continues to apply to the relations between the Kyrgyz Republic and a member state to this Convention, if the 2002 Convention has not been given effect to the latter.

- A number of bilateral agreements on mutual legal support with Azerbaijan, Iran, India, China, Latvia, Mongolia, Russia, Kazakhstan, Uzbekistan, and other nations.

## 1.7 Economy

The Kyrgyz Republic is rich in natural resources, has a high level of public education, enjoys a geographically favourable location, and is characterized by a mild climate. The country has a vast potential for the development of industrial production, hydro power sector, agriculture, and tourism.

Being a democratic nation, the Kyrgyz Republic promotes a convergent system of economy based upon such key principles as free entrepreneurship, a free pricing system, free competition, and state regulation. Development of the industrial sector is represented primarily by electricity production, the non-ferrous metal industry, and food processing. Achievements of the agricultural sector have become possible primarily due to the efforts of peasant farms.

The Kyrgyz Republic ranks 101<sup>st</sup> out of 146 countries in the Forbes “Best Countries for Business” list 2014<sup>13</sup>. It ranks 89<sup>th</sup> in terms of trade freedom, 35<sup>th</sup> in investor protection, 110<sup>th</sup> in personal freedom, 131<sup>th</sup> and 110<sup>th</sup> in innovation and technology, 123<sup>rd</sup> in corruption, 9<sup>th</sup> in red tape, 106<sup>th</sup> in tax burden, and 95<sup>th</sup> in monetary freedom.

### Key Macroeconomic Indicators<sup>14</sup>

According to preliminary data from the National Statistics Committee of the Kyrgyz Republic, in January -July 2015 , Kyrgyzstan’s real GDP has marked 7.1% growth, which is 12.9 percentage points lower than that in the corresponding period of 2011, while nominal GDP has reached 203.8 billion KGS. Decline in economic growth is attributable to a significant reduction in industrial production at the Kumtor deposit.

Real GDP, excluding gold production at the Kumtor deposit, grew by 4.5% (vs. 6.0% in January - September 2011) due to a rise in production (excluding Kumtor) by 7.0%, services by 5.0%, and construction by 12.0%.

In January – July 2015 , investments in fixed capital from all sources of finance increased by 6.2 % compared to the same period last year (vs. 12.5% decline in January - September 2011) totaling KGS 44,864.2 million over the reporting period.

The value of international trade in goods in January – June 2015 reached USD 2,707.9 million which is 13.5% less than in the corresponding period of 2014, with USD 1,995.3 million accounting for import (16.8% decline ) and USD 712.6 million accounting for export (2.6% decline).

### Privatization

In the Kyrgyz Republic, the legal framework for state property privatization and the legal system for securing property rights of individuals and legal entities were formed between 1991 and 2003.

The first phase (1991-1993) concentrated on privatization of trading, public catering and consumer services enterprises. The second phase (1991-1997) ended up with privatization of large and mid-size industrial production, transport and construction enterprises. The third phase (1998-2003) gave

13 [http://www.forbes.com/lists/2011/6/best-countries-11\\_Kyrgyzstan\\_CHI148.html](http://www.forbes.com/lists/2011/6/best-countries-11_Kyrgyzstan_CHI148.html)

14 [http://www.minfin.kg/index.php?option=com\\_content&view=article&id=1697:-----2012-&catid=56:2010-10-05-10-28-02&Itemid=126](http://www.minfin.kg/index.php?option=com_content&view=article&id=1697:-----2012-&catid=56:2010-10-05-10-28-02&Itemid=126)

rise to privatization of large strategic enterprises operating in monopolized sectors of the economy and in non-production area.

These economic reforms resulted in active transformation of state ownership. They gave rise to new property relations and led to a significant decrease of the state's ownership stake in all sectors of the economy, except for basic industries. The general level of privatization is now 70%. Many state-owned enterprises have been converted into municipal ownership<sup>15</sup>.

Economic reforms in the country have brought about the following general preconditions for the development of trade and market relations:

- Private property and freedom of entrepreneurship;
- Elimination of monopoly of state enterprises and collective farms;
- Significant efforts on promotion of broad competition between individual private enterprises, private joint stock companies, joint ventures, foreign companies, farmers' associations, and other forms of business;
- Established two-level system of banking and crediting;
- Liberalized prices.

According to research by the Index of Economic Freedom 2015 Heritage Foundation, the Kyrgyz Republic is one of the "moderately free" countries in the world. The Kyrgyz Republic ranks 82<sup>nd</sup> out of 178 countries of the world and 15<sup>th</sup> out of 42 countries of the Asia Pacific region in terms of freedom of economy and its general score is higher than the average score in the region<sup>16</sup>.

In 2009, the President of the Kyrgyz Republic<sup>17</sup> adopted a decision to conduct the analysis of operations of existing public enterprises in terms of their efficiency and, where necessary, to carry out their reorganization and liquidation, privatization and conversion into joint stock companies. At present, the following publicly owned enterprises are active: Kyrgyzpochtasy PE, Kyrgyzaeronavigatsia PE, Kyrgyzdipservice PE, Kyrgyz Temir Jolu National Company PE, Kyrgyzmarkasy PE<sup>18</sup>, Pravitelstvennaya Svyaz PE, Infocom PE, Kyrgyzstroysservice PE, Kyrgyzresursy PE, Komur PE, Kyrgyz Experimental Biofactory PE, Karakol Distillery PE, Kara-Balta Distillery PE, Temir PE, and others.

Also, a decision was adopted to carry out privatization of state shareholdings (up to 10% of the total number of outstanding or initially or additionally issued shares in public offerings) in joint-stock companies with state shareholding<sup>19</sup> by having them listed and publicly traded on the stock exchange. In Kyrgyzstan, the state has ownership interests in 51 joint stock companies, 32 of which have a state controlling stake. Based on their size, the state's stakes in joint stock companies are spread as follows: less than 25% (12), from 25% to 51% (6), from 51% to 100% (33). Among them, the following companies have been listed on stock exchanges in 2008: RSK Bank OJSC, Manas International Airport OJSC, Uchkun OJSC, Ayil Bank OJSC, TNK Dastan OJSC, Kyrgyzneftegaz OJSC, Kyrgyztelecom OJSC, Elektricheskii Stantsii OJSC, Severelectro OJSC.

15 [http://www.investment.kg/ru/index.php?option=com\\_content&task=blogcategory&id=21&Itemid=77](http://www.investment.kg/ru/index.php?option=com_content&task=blogcategory&id=21&Itemid=77)

16 <http://www.heritage.org/index/pdf/2015/countries/kyrgyzrepublic.pdf>

17 Edict No.: UP No. 96 of the President of the Kyrgyz Republic dated February 10, 2009.

18 <http://www.stamp.elcat.kg/>

19 Report on the Kyrgyz Government's performance in 2008 approved by Resolution No. 115 of Government of the Kyrgyz Republic dated February 11, 2009 (<http://www.gov.kg/images/otchet/otchet2008r.doc>).

## 1.8 Foreign Affairs

### Diplomatic Relations with Foreign Nations

Upon declaring its independence in 1991, the Kyrgyz Republic has established diplomatic relations with many countries.

Currently, the Kyrgyz Republic has diplomatic relations with the following nations: Afghanistan, Albania, Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Bulgaria, Bosnia and Herzegovina, Brazil, Canada, China, Cuba, Cyprus, the Czech Republic, Denmark, Egypt, Finland, France, Germany, Georgia, Greece, Hungary, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kuwait, Latvia, Lithuania, Macedonia, Malaysia, Mexico, Moldova, Mongolia, Morocco, Nepal, the Netherlands, New Zealand, North Korea, Norway, Oman, Palestine, Paraguay, Pakistan, Philippines, Poland, Portugal, Romania, Russia, Saudi Arabia, Serbia and Montenegro, Slovakia, Slovenia, South Korea, the South African Republic, Spain, Sri Lanka, Sweden, Switzerland, Syria, Tajikistan, Turkmenistan, Turkey, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United States of America, the United Arab Emirates, Uzbekistan, Vatican, Vietnam, Yemen, Zambia.

The Kyrgyz Republic has set up diplomatic missions to:

- Russian Federation (also covering the Republic of Georgia, the Republic of Armenia, the Republic of Finland);
- Republic of Ukraine (also covering the Republic of Moldova, the Republic of Romania);
- Republic of Belarus (also covering the Republic of Poland, the Republic of Latvia, the Republic of Lithuania);
- Turkmenistan;
- Republic of Tajikistan;
- Republic of Uzbekistan;
- Republic of Kazakhstan;
- Islamic Republic of Iran;
- People's Republic of China (also covering the Peoples Republic of Mongolia);
- Kingdom of Saudi Arabia (also covering the Arab Republic of Egypt, the State of Qatar);
- Republic of India (also covering the Democratic Socialist Republic of Sri Lanka, the Kingdom of Nepal, and the People's Republic of Bangladesh);
- United Kingdom of Great Britain and Northern Ireland;
- Malaysia (also covering Singapore, the Republic of Indonesia, the Kingdom of Thailand, the Republic of Philippines);
- Japan;
- United States of America (also covering Canada);
- Swiss Confederation (also covering the Principality of Liechtenstein, the Republic of Italy); Permanent Mission to the United Nations and other international organizations based in Geneva;
- Kingdom of Belgium (also covering the Kingdom of Netherlands, the Grand Duchy of Luxembourg, the Republic of France);
- Austrian Republic (also covering the Republic of Hungary, the Republic of Slovakia, the Czech Republic, the State of Israel);
- Federal Republic of Germany (also covering the Holy See (Vatican), the Kingdom of Sweden, the Kingdom of Denmark, the Kingdom of Norway);
- Turkish Republic (also covering the Republic of Macedonia);
- Islamic Republic of Pakistan;



- Republic of Korea;
- Republic of Azerbaijan;
- Islamic Republic of Afghanistan;
- State of Kuwait.

The Kyrgyz Republic also has the following consular offices:

- A general consulate in Yekaterinburg, the Russian Federation;
- A consular office in Saint Petersburg, the Russian Federation;
- A vice consular office in Novosibirsk, the Russian Federation;
- A general consulate in Almaty, the Republic of Kazakhstan;
- A general consulate in Istanbul, the Republic of Turkey;
- A general consulate in Dubai, the United Arab Emirates;
- A general consulate in Guangzhou, the People's Republic of China;
- A consular agency in Frankfurt am Main, the Federal Republic of Germany;
- A consular office in Karachi, the Islamic Republic of Pakistan;
- A consular office in Meshed, the Islamic Republic of Iran;
- A visa office in Urumqi, the People's Republic of China.

In addition, the Kyrgyz Republic maintains the following permanent missions to international organizations:

- The permanent mission to the United Nations and other international organizations in New York City, USA;
- The permanent mission to the United Nations and other international organizations in Geneva, Switzerland;
- The permanent mission to the Organization for Security and Cooperation in Europe and other international organizations in Vienna, Austria.

### **Participation of the Kyrgyz Republic in International and Regional Organizations**

Currently, the Kyrgyz Republic belongs to 80 international and regional organizations, including the following regional organizations<sup>20</sup>:

- cooperation organizations: the United Nations Organization, the Organization for Security and Cooperation in Europe, the Economic Cooperation Organization, the Organization of the Islamic Conference, the Collective Security Treaty Organization, the Commonwealth of Independent States, the Eurasian Economic Cooperation, the Shanghai Cooperation Organization, and the Organization for Economic Cooperation and Development;
- financial institutions: the International Currency Fund, the Asian Development Bank, the International Bank for Reconstruction and Development (the World Bank Group), the International Development Association (the World Bank Group), the European Bank for Reconstruction and Development, and the Islamic Development Bank;
- trade organizations: the World Trade Organization and the Agency for International Trade, Information and Cooperation;
- food and agriculture organizations: the Food and Agriculture Organization, the International Centre for Agricultural Research in the Dry Areas, the International Commission on Irrigation and Drainage, the International Water Coordination Commission, the Secretariat of the UN Convention to Combat Desertification, the International Epizootic Bureau, the CIS Intergovernmental

<sup>20</sup> [http://kg.akipress.org/\\_print.php?db=news&id=53619](http://kg.akipress.org/_print.php?db=news&id=53619)



Council for Veterinary Cooperation, and the European and Mediterranean Quarantine and Plant Protection Organization;

- transport and communications organizations: the International Union of Electric Communication, the Universal Postal Union, the International Civil Aviation Organization, and the Coordination Transport Meeting of Railroad Cooperation Organization;
- labour, social security and migration organizations: the International Labour Organization, the International Social Security Association, the International Association of Pension and Social Funds, and the International Organization for Migration;
- health care organizations: the International Health Organization, the International Committee of the Red Cross, and the National Red Crescent Society;
- patent organizations: the World Intellectual Property Organization, the Eurasian Patent Organization, the International Confederation of Societies of Authors and Composers;
- energy organizations: the Energy Charter Secretariat, and the Energy Regulators Regional Association;
- environmental and biological safety organizations: the Secretariat of the United Nations Framework Convention on Climate Change and the Kyoto Protocol to the UN Framework Convention on Climate Change, the UN/ECE Convention on Environmental Impact Assessment in a Trans-boundary Context, the Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and their Disposal, the Stockholm Convention on Persistent Organic Pollutants, the Convention on Long-range Trans-boundary Air Pollution, the Vienna Convention for the Protection of the Ozone Layer, the UN Convention on Biological Diversity, and the UN Convention on International Trade in Endangered Species of Wild Fauna and Flora; and
- natural disaster prevention organizations: the World Meteorological Organization, the Asian Disaster Reduction Centre, the CIS International Council for Natural and Man-made Emergencies, and the CIS International Council for Hydrometeorology.

### **The Economic Cooperation Organization (ECO) – since November 1992**

The key goal of the ECO as an inter-governmental regional institution is to identify the common interests of its member countries in various areas of economic cooperation, to assure their integrated coordination, to make decisions and bring them to the stage of execution. Trade between the Kyrgyz Republic and other ECO member countries represents about 70% of the entire trade volume of the country.

### **The Commonwealth of Independent States (CIS) – since September 1993**

At present, the CIS, being one of the traditional forms of multilateral cooperation between post-Soviet nations, supports the maintenance of previously established relations in the post-Soviet period, and continues to play a stabilizing role resolving problems in various fields of cooperation among the CIS countries.

The Kyrgyz Republic is genuinely interested in international cooperation. Furthermore it actively participates in the structures of the CIS and within its framework, contributes to the further development of commercial and economic relations between the member countries.

### **The Organization of the Islamic Conference (OIC) – since December 1992**

One of the areas of the OIC's activities since the disintegration of the Soviet Union is the resolution of economic problems in Islamic countries through the program developed by the OIC to establish a common market of Islamic countries based on the example of the European Economic Union.

**The EuroAsian Economic Community (EurAsEC) – since June 2001**

The EurAsEC is the legal successor to the Customs Union (CU) – March 1996.

The principal goals of the EurAsEC in the field of foreign trade and customs policy are: the further development of free trade; the establishment of the single customs tariff and a unified system of non-tariff regulation measures; the introduction of a concurrent system of preferences; the development of a harmonized position of member countries towards the WTO and other international economic structures; the introduction of a unified procedure of currency exchange regulation and supervision; the establishment of an efficient payment and settlement mechanism; economic safety at the external borders of the Community, their consolidation and development, and the alleviation of smuggling and other customs violations.

Economic policy activities include: a harmonized structural reorganization; the development and implementation of joint programs for social and economic development; a common payment system and compatibility of monetary and financial systems. They are also aimed at the establishment of equal conditions for production and business activities and equal access to markets for foreign investment, the establishment of a common transportation services market and a common energy market; joint research and development in priority areas of science and technology; the development of a unified system of legal regulation; and the establishment and operation of financial and industrial groups on a bilateral and multilateral basis.

**The Shanghai Cooperation Organization (SCO) – since June 2001**

The principal goals and objectives of the SCO are: to strengthen mutual trust, friendship and neighbourliness between the member countries; to develop multi-industry cooperation for the purpose of supporting and strengthening peace, security and stability in the region; to jointly combat any exhibitions of terrorism, separatism and extremism; to combat illegal drug and arms traffic, other types of transnational criminal practices, and illegal migration; to encourage effective regional cooperation in the areas of common interest; to support integrated and balanced economic growth, social and cultural development of the region by joint actions taken on the basis of equal partnership with the purpose of continuous increase in living standards and conditions for the population in the member countries; to coordinate approaches towards integration into the global economy; to help assure fundamental human rights and freedoms in accordance with international obligations of the member countries and their national legislation; to support and develop relations with other countries and international organizations; to take joint action in the prevention of international conflicts and their peaceful reconciliation; and to jointly search for solutions to problems that may arise in the 21<sup>st</sup> century.

## 2. INVESTMENT CLIMATE

### 2.1 Legal Framework for Investment Activities

Since investments are a major prerequisite for economic development in the Kyrgyz Republic, investment legislation of the country is quite liberal.

The Constitution is the basic and paramount law to which all other laws must conform, including the laws directly or indirectly regulating investment in the Kyrgyz Republic such as the “Law on Licensing”, the “Law on Joint-Stock Companies”, the “Law on Mining”, the “Law on Free Economic Zones in KR”, the Tax Code, the Land Code, the Customs Code, the Civil Code, the “Law on Public-Private Partnership in KR”. Nonetheless, the principal law governing investment is the “Law on Investment in Kyrgyz Republic”<sup>21</sup>.

Thus, under the legislation of the Kyrgyz Republic<sup>22</sup>, foreign investors enjoy the national treatment applied to individuals and legal entities of this country. Legislation provides for a broad scope of rights and guarantees to foreign investors, including guarantees of export and repatriation of investment, property, and information out of the Kyrgyz Republic, guarantees of protection against investment expropriation and coverage of losses incurred by investors, guarantees of income use and freedom of monetary transactions, and others.

The Kyrgyz Republic has entered into a number of bilateral treaties on mutual support, encouragement and protection of investment (capital expenditure). Such treaties have been signed with a number of countries such as<sup>23</sup>:

- The People’s Republic of China (1995);
- The Republic of Turkey (1996);
- The Republic of Ukraine (treaty signed in 1993);
- The United States of America (1994);
- The Republic of Armenia (1995);
- The United Kingdom of Great Britain and Northern Ireland (1998);
- The Republic of France (1997);
- The Islamic Republic of Iran (2005);
- The Republic of Azerbaijan (1997);
- The Federal Republic of Germany (2006);
- The Republic of Georgia (1997);
- The Republic of India (2000 );
- The Republic of Kazakhstan (2005);
- The Republic of Belarus (2001);
- The People’s Republic of Mongolia (treaty signed in 1999)
- The Swiss Confederation (2003);
- The Republic of Tajikistan (2001);
- The Kingdom of Sweden (2003);
- The Republic of Moldova (2004);
- The Republic of Finland (2004);
- The Republic of Korea (2008);
- The Republic of Latvia (signed in 2008);
- The Republic of Lithuania (2009);

<sup>21</sup> [http://www.kgembassy.org/index.php?option=com\\_content&view=article&id=112&Itemid=225](http://www.kgembassy.org/index.php?option=com_content&view=article&id=112&Itemid=225)

<sup>22</sup> The Law of the Kyrgyz Republic “On Investments in the Kyrgyz Republic” dated March 27, 2003 (with the latest amendments as of February 13, 2015 ).

<sup>23</sup> In parentheses are the years on which the respective treaties came into effect in the Kyrgyz Republic, unless stated otherwise.

- Denmark (signed in 2001);
- Malaysia (signed in 1995);
- The Islamic Republic of Pakistan (signed in 1995);
- The Republic of Indonesia (1997);
- The Republic of Uzbekistan (signed in 1997);
- The United Arab Emirates (signed in 2014);
- State of Qatar (signed in 2014);
- State of Kuwait (signed in 2015).

The Government of the Kyrgyz Republic has approved draft agreements on mutual support, encouragement and protection of investment with the Czech Republic<sup>24</sup>, the Kingdom of the Netherlands<sup>25</sup>.

The Ministry of Economic Development and Trade of the Kyrgyz Republic is the authorized executive body responsible for the development of its national investment policy. It drafts and implements a cohesive national macroeconomic, financial, tax and customs policy, in addition to a policy that covers economic development, foreign trade and economic activities, encouraging investment, technical regulation, support and development of entrepreneurship, and the development of free economic zones<sup>26</sup>.

The primary tasks of the Investment and Export Promotion Agency under the Ministry of Economy are to attract and promote investment into the national economy, to assist existing and potential exporters in promoting their products in overseas markets and to develop mechanisms for public-private partnership<sup>27</sup>.

## 2.2 State Guarantees to Foreign Investors

Subject to its legislation<sup>28</sup>, the Kyrgyz Republic provides the following guarantees to foreign investors:

- National treatment of business activities, equal investment rights of domestic and foreign investors, no intervention into the business activities of investors, protection and restitution of infringed rights of investors in accordance with the legislation of the Kyrgyz Republic;
- Export or repatriation of profit gained on investment, proceeds of investment activities in the Kyrgyz Republic, property, and information, out of the Kyrgyz Republic;
- Protection against expropriation (nationalization, requisition, or other equivalent measures, including action or omission on the part of authorized government bodies of the Kyrgyz Republic that has resulted in seizure of investor's funds or investor's deprivation of the possibility to use the results of their investment). In exceptional cases involving public interest, investments may be expropriated with concurrent state guarantees of appropriate coverage of damage incurred by the investor;
- The investor's right to freely use the income derived from their activities in the Kyrgyz Republic;
- The freedom to invest in any form into objects and activities not prohibited by the legislation of the Kyrgyz Republic, including the activities subject to licensing;

<sup>24</sup> Ordinance No. 125-r of the Government of the Kyrgyz Republic dated April 12, 2000.

<sup>25</sup> Ordinance No. 594-r of the Government of the Kyrgyz Republic dated October 1, 2003.

<sup>26</sup> Regulation on Ministry of Economy of Kyrgyz Republic dated 20 February 2012 (with the latest amendments as of September 27, 2016)

<sup>27</sup> Regulation on State Investment and Export Promotion Agency under the Ministry of Economy of the Kyrgyz Republic dated October 14, 2016.

<sup>28</sup> Chapter 2 of the Law of the Kyrgyz Republic: "On Investments in the Kyrgyz Republic" dated March 27, 2003 No.66 (with the latest amendments as of February 13, 2015 No.32).

- Freedom of monetary transactions (free conversion of currency, unbound and unrestricted money transfers; should provisions restricting money transfers in foreign currency be introduced into the legislation of the Kyrgyz Republic, these provisions will not apply to foreign investors, with the exception of cases where investors engage in illegitimate activities (such as money laundering);
- Free access to open-source information;
- The right to: establish legal entities of any organizational and legal form provided by the legislation of the Kyrgyz Republic; open branches and representative offices within the territory of the Kyrgyz Republic; select any organizational and managerial structure for the business entities, unless a different structure is explicitly required by law for the given organizational and legal form of a business entity; acquire property (with the exception of land plots), shares, other securities, including governmental securities; participate in privatization of state property, establish associations and other unions; hire local and foreign employees subject to legislation of the Kyrgyz Republic; and engage in other investment activities not prohibited by legislation in the Kyrgyz Republic
- Recognition by public authorities and officials of the Kyrgyz Republic of all intellectual property rights of foreign investors;
- In the event of amendments to the Law of the KR on Investments, or the tax legislation of the Kyrgyz Republic or the nontax payments legislation, the investor and the investee who meet the statutory requirements have the right, during 10 years from the date of signing the stabilization agreement, to choose such conditions as may be most favorable to them for paying taxes including value added tax but excluding other indirect taxes, and nontax payments (except fees and charges for public services) in the manner provided by the laws of the Kyrgyz Republic. The procedure and conditions for applying stabilization regime to tax and nontax legal relationships are established by the laws of the Kyrgyz Republic;
- Other guarantees specifically provided in bilateral and multilateral international treaties on the promotion and protection of investment, to which the Kyrgyz Republic is a party.

### 2.3 Investment Agreement with the Government of the Kyrgyz Republic

The Government of the Kyrgyz Republic may execute investment agreements for implementing investment projects initiated by the investor in accordance with state development programs in high priority economic and social sectors. Such investment agreements may be executed through direct negotiations between the Government of the Kyrgyz Republic and the investor, provided that the amount of investment made by the investor in the investment project is not less than USD 50 million and the investor has internationally recognized business reputation, unique knowledge and experience in successfully implementing the projects in the similar area of practice.

### 2.4 Settlement of Investment Disputes

Under the legislation of the Kyrgyz Republic<sup>29</sup>, investment dispute parties may agree on any applicable procedure for settlement of investment disputes.

Failing such an agreement, an investment dispute between the Kyrgyz authorities and an investor shall be settled wherever possible by consultations between the parties. If the parties do not settle

<sup>29</sup> Article 18 of the Law of the Kyrgyz Republic: "On Investments in the Kyrgyz Republic" dated March 27, 2003 No.66 (with the latest amendments as of February 13, 2015 No.32).

amicably within 3 months from the day of the first written request for such consultation, any investment dispute between the investor and the Kyrgyz authorities shall be settled in the Kyrgyz courts, unless either party to the dispute between the foreign investor and the authority requests to consider the dispute in accordance with one of the following procedures by submitting to:

- the International Center for Settlement of Investment Disputes (ICSID) under the Convention on the Settlement of Investment Disputes between States and Citizens of Other States or under the Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of the ICSID; or
- arbitration or an international ad hoc arbitral tribunal (commercial court) formed in accordance with the arbitration rules of the United Nations Commission on International Trade Law.

Some treaties on mutual support, encouragement and protection of investment (capital expenditure), to which the Kyrgyz Republic is a party, contain provisions entitling foreign investors to submit their investment disputes to international arbitral tribunals.

### 3. LEGAL STATUS OF FOREIGN NATIONALS

#### 3.1 Visa and Registration Requirements

Subject to the legislation of the Kyrgyz Republic<sup>30</sup>, foreign nationals and stateless persons may enter the Kyrgyz Republic for temporary or permanent residence on the basis of a visa, temporary or permanent residence permit.

#### Visa Requirements and Visa-Free Travel

Initial issuance of all categories of visas is performed by diplomatic missions and consular offices of the Kyrgyz Republic.

Below is a list<sup>31</sup> of the foreign countries whose nationals are subject to a simplified visa regime. The law provides that nationals of foreign countries included in this list are eligible to obtain Kyrgyz entry and exit visas from overseas diplomatic missions and consular offices of the Kyrgyz Republic and from consular offices in the Kyrgyz Republic at their personal request for a term of up to 90 days<sup>32</sup>:

- Australia, the Republic of Austria, the Kingdom of Belgium, the Republic of Bulgaria, Bosnia and Herzegovina, the United Kingdom of Great Britain and Northern Ireland, the Republic of Hungary, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Denmark, the State of Israel, the Republic of Ireland, the Republic of Iceland, the Kingdom of Spain, the Italian Republic, Canada, the Republic of Cyprus, the Republic of Korea, the Republic of Lithuania, the Republic of Latvia, the Principality of Liechtenstein, the Grand Duchy of Luxembourg, the Republic of Macedonia, the Republic of Malta, Monaco, the Netherlands, the Kingdom of Norway, New Zealand, the Republic of Poland, the Portuguese Republic, the Republic of Romania, the Republic of Serbia, the Republic of Slovenia, Singapore, Slovak Republic, the United States of America, the Republic of Turkey, the Republic of Finland, the French Republic, the Republic of Croatia, the Republic of Montenegro, the Czech Republic, the Swiss Confederation, the Kingdom of Sweden, the Republic of Estonia, Andorra, Argentina, Brazil, Vatican City, Vietnam, the Kingdom of Thailand, the Kingdom of Saudi Arabia, Mexico, the United Arab Emirates, San Marino, the Philippines, the Republic of Albania, Brunei Darussalam, the Republic of Indonesia, Republic of South Africa, the Republic of Chile, the Bolivarian Republic of Venezuela, the State of Qatar, the State of Kuwait, the Sultanate of Oman, the Kingdom of Bahrain, Japan.

**Visa-free travel** possibilities are granted on the basis of the legislation of the Kyrgyz Republic<sup>33</sup> and international treaties to which the Kyrgyz Republic is a party. Nationals of the following countries may enter the Kyrgyz Republic visa-free:

- Visa-free entry for up to 60 days for nationals of: the Commonwealth of Australia, the Republic of Austria, the Kingdom of Belgium, Bosnia and Herzegovina, the Vatican, the United Kingdom of Great Britain and Northern Ireland, Hungary, the Federal Republic of Germany, the Netherlands, the Hellenic Republic, the Kingdom of Denmark, Iceland, Ireland, the Kingdom of Spain, the Italian Republic, Canada, the Republic of Korea, Kuwait, the Republic of Latvia, the

<sup>30</sup> The Law of the Kyrgyz Republic "On External Migration" dated July 17, 2000, No.61 (with the latest amendments as of October 24, 2016).

<sup>31</sup> Resolution No. 87 of the Government of the Kyrgyz Republic on Approval of List of Foreign States whose Nationals are Subject to a Simplified Visa Regime dated February 7, 2009 (with the latest amendments as of July 23, 2015).

<sup>32</sup> Resolution No. 87 of the Government of the Kyrgyz Republic on Approval of List of Foreign States whose Nationals are Subject to a Simplified Visa Regime dated February 7, 2009 (with the latest amendments as of July 23, 2015).

<sup>33</sup> The Law of the Kyrgyz Republic "On Introduction of Visa-free Regime for Citizens of Some States for up to 60 Days" dated July 21, 2012 No. 121 (with the latest amendments as of July 19, 2013).



Republic of Lithuania, the Principality of Liechtenstein, the Grand Duchy of Luxembourg, the Republic of Malta, Monaco, New Zealand, Norway, the United Arab Emirates, the Republic of Poland, the Portuguese Republic, the Kingdom of Saudi Arabia, the Republic of Singapore, the Slovak Republic, the Republic of Slovenia, the United States of America, the Republic of Finland, the French Republic, the Republic of Croatia, the Czech Republic, the Swiss Confederation, the Kingdom of Sweden, the Republic of Estonia, the State of Qatar, the State of Brunei Darussalam, the Kingdom of Bahrain, Japan;

- Visa-free entry for holders of all categories of passports of nationals of: the Republic of Armenia, the Republic of Azerbaijan, the Republic of Belarus, the Republic of Cuba, the Republic of Georgia, the Republic of Kazakhstan, the Democratic People's Republic of Korea, Malaysia (for the period from 1 month up to 3 months depending on purpose of stay), the Republic of Moldova, Mongolia (up to 90 days), the Russian Federation, the Republic of Tajikistan, the Republic of Ukraine (up to 90 days), the Republic of Uzbekistan (up to 60 days), the Turkish Republic (up to 1 month), Vietnam, Lao People's Democratic Republic.
- Visa-free entry for up to 1 month for nationals holding diplomatic and service passports of: the Republic of Hungary, the Islamic Republic of Pakistan, the Islamic Republic of Iran (up to 30 days for holders of service passports), the People's Republic of China, Turkmenistan, the Republic of Uzbekistan (up to 60 days), Singapore, the Republic of Korea, the Republic of Indonesia, the Republic of India (up to 90 days), the Republic of Romania (up to 90 days within a period of 180 days), the State of Kuwait (not exceeding 90 days per period of 60 months from the date of the first entry), the State of Qatar (up to 90 days).
- Visa-free entry for nationals holding diplomatic passports of: the Republic of Austria, the Kingdom of Belgium, Canada, the Kingdom of Denmark, the Republic of Finland, the Republic of France, the Federal Republic of Germany, the Republic of Greece, the Republic of Iceland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Kingdom of Norway, the Republic of Portugal, the Kingdom of Spain, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland, the United States of America, the Slovak Republic (up to 30 days), the Republic of Poland (up to 90 days within a period of 180 days).

### Visa Categories

- Diplomatic (issued to foreign nationals holding diplomatic passports and entering the Kyrgyz Republic for official purposes or for transit travel through its territory);
- Service (issued to foreign nationals holding service passports and entering the Kyrgyz Republic for official purposes or for transit travel through its territory);
- Business (issued to foreign nationals entering the Kyrgyz Republic for business purposes)
- Investment (issued to direct investors entering the Kyrgyz Republic with the intent to engage in investment activities and providing required supporting documentation that proves their production-related contribution of money and valuables into the economy of the Kyrgyz Republic of USD 500 thousand );
- Tourist (issued to foreign nationals entering the Kyrgyz Republic as tourists);
- Work (issued to foreign nationals entering the Kyrgyz Republic for work under work permits);



- Private (issued to foreign nationals entering the Kyrgyz Republic for private purposes, such as visiting family and friends, undergoing medical treatment, permanent or temporary residence);
- Religious (issued to foreign nationals entering the Kyrgyz Republic for cooperation with religious organizations with the consent of the public authority of the Kyrgyz Republic for religious matters;
- Transit (issued to foreign national transiting through the Kyrgyz Republic to any third countries).

Visas may be single-entry, double-entry, or multiple. A foreign national receiving a visa shall pay a state duty or a consular fee in the amount set by the Government of the Kyrgyz Republic.<sup>34</sup>

## **Residence Permit**

A Kyrgyz residence permit is a document allowing foreign nationals and stateless persons to, temporarily or permanently, reside, stay, enter or exit from the Kyrgyz Republic visa free.

Under Kyrgyz legislation<sup>35</sup>, foreign nationals or stateless persons residing in the Kyrgyz Republic for not less than 6 months may file with the local offices of the Department of Registration of Population under the State Registration Service under the Government of the Kyrgyz Republic closest to the place of location an application for residence permit.

### **A temporary residence permit is issued to foreign nationals or stateless persons in order to:**

- Work in the Kyrgyz Republic;
- Study in an educational institution at the request of this educational institution and the Kyrgyz Ministry of Education and Science;
- Pursue investment activities in the Kyrgyz Republic.

A temporary residence permit is issued to foreign nationals and stateless persons for a term of 1 year with the possibility of subsequent extension for not more than 5 years.

The application for a temporary residence permit is generally reviewed within not more than 1 month.

Temporary residence permits are issued in the local offices of the Department of Registration of Population and Affidavits of Civil Status under the State Registration Service under the Government of the Kyrgyz Republic.

### **Permanent residence permits** are issued to:

- Those who have duly received a Kyrgyz permanent residence permit, including those who returned to the Kyrgyz Republic, whose Kyrgyz citizenship has been terminated in accordance with law;
- Those who permanently reside in the Kyrgyz Republic but have not received Kyrgyz citizenship or whose Kyrgyz citizenship has been terminated in accordance with law;
- Foreign nationals or stateless persons permanently residing in the Kyrgyz Republic upon the attainment of 18 years of age.

<sup>34</sup> Resolution On consular fees and charges for actual expenses No. 839 of the Government of the Kyrgyz Republic dated December 18, 2012.

<sup>35</sup> Regulation on procedure for issuing temporary and permanent residence permits to foreign nationals and stateless persons in the Kyrgyz Republic approved by Resolution No. 626 of the Government of the Kyrgyz Republic dated November 13, 2008 (with the latest amendments as of July 15, 2015).

Foreign nationals are issued permanent residence permits for a term of 5 years, but not longer than the foreign passport validity period, and upon the attainment of 45 years of age for the entire validity period of the foreign passport. Stateless persons are issued permanent residence permits for a term of 5 years, and upon the attainment of 45 years of age, for an unlimited term.

The application for a permanent residence permit is reviewed within 1 year from the date of filing the application.

The permanent residence permits are given out in the Department of Registration of Population and Affidavits of Civil Status under the State Registration Service under the Government of the Kyrgyz Republic.

Upon receipt of the residence permit, foreign nationals or stateless persons must within 5 business days file for registration with the territorial bodies of the Department of Registration of Population and Affidavits of Civil Status under the State Registration Service under the Government of the Kyrgyz Republic that are closest to the place of temporary or permanent residence.

### **Registration Procedure**

Foreign nationals and stateless persons (except foreign nationals exempt from registration) entering the Kyrgyz Republic for the period of more than 5 business days from the date of crossing the state border of the Kyrgyz Republic, must register a place of residence with the territorial subdivisions of the State Registration Services under the Government of the Kyrgyz Republic. The Kyrgyz Government is entitled to approve a list of countries, the citizens of which may stay in the Kyrgyz Republic without registration for a longer period of time<sup>36</sup>.

To work in the Kyrgyz Republic, foreign nationals or stateless persons must have a work permit. For more details on work permits for foreign nationals refer to Section 10.

## **3.2 Basic Rights, Freedoms, and Obligations of Foreign Nationals**

Foreign nationals within the territory of the Kyrgyz Republic generally enjoy the same rights and bear the same obligations as the nationals of the Kyrgyz Republic<sup>37</sup>. Foreign nationals are equal under the law, regardless of sex, race, language, disability, ethnic origin, creed, age, political or other beliefs, education, social origin, property or other status, and other circumstances.

Foreign nationals are entitled to work when it is compatible with the purpose and timeframe of their visit to the Kyrgyz Republic, or when a respective permit has been issued, except for the nationals of the Eurasian Economic Union member states<sup>38</sup>.

Foreign nationals permanently residing in the Kyrgyz Republic are entitled to social services and healthcare, and may join public associations of non-political purposes on the same grounds as nationals of the Kyrgyz Republic unless otherwise provided in charters (bylaws) of such associations.

Foreign nationals have the same right to leisure as citizens of the Kyrgyz Republic, enjoy cultural benefits and have property and personal non-property rights and all other rights equivalent to nationals of the Kyrgyz Republic.

<sup>36</sup> The Law of the Kyrgyz Republic "On External Migration" of July 17, 2000 No. 61 (with the latest amendments as of October 24, 2016).

<sup>37</sup> The Law of the Kyrgyz Republic "On Legal Status of Foreign National in the Kyrgyz Republic" dated December 14, 1993 No. 1296-XII (with the latest amendments as of October 11, 2011);

<sup>38</sup> Treaty on Eurasian Economic Union dated May 29, 2014

A foreign national can freely move throughout the territory of the Kyrgyz Republic and choose a place of residence in the manner provided by Kyrgyz law. In which case, they are guaranteed inviolability of person and dwelling.

Foreign nationals are required to pay taxes and charges on the same basis as Kyrgyz nationals, unless otherwise provided by Kyrgyz law.

Foreign nationals in the Kyrgyz Republic have the right to refer to court and other government bodies for protection of their personal, property, family and other rights. They enjoy the same litigation rights as Kyrgyz nationals.

Foreign nationals who commit crimes, administrative or other legal offences in the territory of the Kyrgyz Republic are subject to the same liability as Kyrgyz nationals.

A foreign national staying in the Kyrgyz Republic is provided with the opportunity to contact the diplomatic or the consular mission of his own country, or if such is not available, the diplomatic or consular mission of another country authorized to protect the rights and legal interests of nationals of his country of citizenship.

## 4. FORMS OF BUSINESS

### 4.1 Branches and Representative Offices of Foreign Legal Entities

Branches and representative offices of foreign companies are not considered to be Kyrgyz legal entities. They are endowed with the property of their foreign founders, and act on the basis of the approved by-laws. The legislation of the Kyrgyz Republic distinguishes between branches and representative offices. The functions of representative offices are limited to representing a foreign legal entity and protecting its interests, performing transactions and other legal actions on behalf of the same. Branches, on the other hand, fulfil all or part of the functions of the foreign founder, including representation. The chiefs of the branch / representative office act under a power of attorney issued by the main / head office.

Under the legislation of the Kyrgyz Republic<sup>39</sup>, branches and representative offices have the following rights and obligations:

- To open bank accounts and execute payments in any currency;
- To hire local employees;
- To hire foreign employees and obtain relevant work permits for them;
- To enter into any contractual relations with local and foreign companies and execute/assume liabilities under any agreements providing for payments in local or foreign currency; and
- To have permits for purchase or lease of immovable property.

The legislation of the Kyrgyz Republic provides for a number of restrictions with respect to branches and representative offices. Thus, a branch or representative office may only exist as long as their parent company exists. A branch or representative office may not be licensed to perform certain types of activities or provide certain types of services.

### Registration of Branches and Representative Offices

Branches and representative offices located within the Kyrgyz Republic, with the exception of branches and representative offices established within free economic zones, are subject to mandatory registration.

Registration of branches and representative offices of foreign legal entities is carried out by the Ministry of Justice of the Kyrgyz Republic or its subdivisions<sup>40</sup>. For the purposes of registration, a foreign legal entity must submit the following documents<sup>41</sup>:

- (i) The application for registration;
- (ii) The resolution of the authorized body of the foreign legal entity to establish the branch or representative office;
- (iii) A copy of the certificate of state registration (re-registration) of the foreign legal entity;
- (iv) A legalized<sup>42</sup> excerpt from the trade register or other proof that the foreign legal entity is in good standing under the laws of its country.

<sup>39</sup> The Law of the Kyrgyz Republic "On Business Partnerships and Companies" dated November 15, 1996 (with the latest amendments as of May 20, 2016).

<sup>40</sup> Free-trade zone branches and representative offices of non-free-trade zone enterprises are subject to registration with the General Directorate of Free-Trade Zone. The General Directorate of Free-Trade Zone establishes the registration procedures for business entities with foreign investment.

<sup>41</sup> Article 10 and 15 of the Law of the Kyrgyz Republic "On State Registration of Legal Entities, Branches (Representative Offices)" dated February 20, 2009 (with the latest amendments as of May 22, 2015).

<sup>42</sup> Document legalization is carried out by Kyrgyz consular offices to respective foreign states or, where no such consular offices exist, by the consular offices of the Republic of Kazakhstan and the Russian Federation. Under Kyrgyz Law dated November 16, 2009, the Kyrgyz Republic has acceded to the Hague Convention abolishing the requirement of legalization for foreign public documents.

- (v) A copy of passport (or other document deemed to be the proof of identity under Kyrgyz law) of an individual being the head of the branch or representative office.

For the establishment of a branch or representative office of a foreign bank, a permit of the National Bank of the Kyrgyz Republic is required.

For registration of their branches (representative offices), financial institutions, foreign or international organizations additionally submit the following documents to the registering authority:

- approved bylaws of the branch (representative office) in 2 copies;
- copies of foundation documents of the financial institution, foreign or international organization that made a decision to create a branch (representative office).

### **Liquidation of Branches and Representative Offices**

To liquidate a branch or representative office, the following documents need to be submitted to the registering authority<sup>43</sup>:

- (i) The application for registration;
- (ii) The decision of the authorized body or court to liquidate the branch or representative office;
- (iii) The certificate of registration (re-registration) of the branch or representative office;
- (iv) A statement of surrender of seals and stamps of the branch or representative office to the internal affairs authority;
- (v) A statement of no tax due to the subdivision of the Kyrgyz State Committee for Taxes and Charges; and
- (vi) Statement of no social security payments due to the subdivision of the Social Fund of the Kyrgyz Republic.

The branches (representative offices) of financial institutions, foreign or international organizations are also required to submit the regulation on branch (representative office).

Registration of branches and representative offices, as well as registration of their liquidation, are carried out by the Ministry of Justice of the Kyrgyz Republic and its subdivisions.

## **4.2 Legal Entities**

A variety of organizational legal forms of legal entities exist in the Kyrgyz Republic, the most common being:

- Limited liability companies; and
- Joint stock companies (open or closed).

The key legal acts regulating activities of legal entities are the Civil Code of the Kyrgyz Republic<sup>44</sup>, the Law of the Kyrgyz Republic “On Business Partnerships and Companies”, and the Law of the Kyrgyz Republic “On Joint Stock Companies”<sup>45</sup>.

<sup>43</sup> Article 17 of the Law: “On State Registration of Legal Entities, Branches (Representative Offices)” dated February 20, 2009 (with latest amendments as of December 13, 2012).

<sup>44</sup> Part I of the Civil Code of the Kyrgyz Republic dated May 8, 1996 (with the latest amendments as of July 23, 2016 No. 134, 2013).

<sup>45</sup> The Law of the Kyrgyz Republic “On Joint Stock Companies” dated March 27, 2003 (with the latest amendments as of May 20, 2016).

### Limited Liability Companies

A limited liability company (LLC) is one of the most widespread types of legal entities in the Kyrgyz Republic, having a number of advantages:

- The participants in a LLC are not liable for its obligations, and their risk of losses that may be incurred as a result of the company performance is limited to the amount of their respective contributions; and
- The structure and powers of management bodies of a LLC are not subject to detailed legislative regulation, therefore, management and decision making in a LLC are more flexible.

The minimum charter capital of a LLC is KGS 1 (approximately USD 0.01 as of July 2016).

It must be noted that, subject to the legislation of the Kyrgyz Republic<sup>46</sup>, a LLC may not have as its sole participant another business entity consisting of a single person.

The number of participants in a LLC may not exceed 30; otherwise the LLC must be reorganized into a joint stock company within 1 year. Should a LLC fail to comply with this requirement, it will be subject to liquidation by court order.

### Joint Stock Companies

A joint stock company is another popular form of a legal entity as shareholders are not liable for the obligations of the company. Also, the risk of losses that they may incur as a result of the company performance is limited to the value of shares owned by the shareholders.

A joint stock company must issue shares in the national currency of the Kyrgyz Republic, regardless of the form of original contribution. In addition to shares, joint stock companies may issue other securities (such as debenture bonds) to raise working capital.

Under Kyrgyz law<sup>47</sup>, a founder legal entity consisting of a single participant/shareholder may not act as the sole founder/shareholder of a joint stock company.

The minimum charter capital of a joint stock company is 100,000 KGS (approximately USD 1,481 as of July 2016). As of the date of founding, the charter capital must be fully paid in and distributed among the founders.

Joint stock companies established in the Kyrgyz Republic may be either open or closed.

A closed joint stock company is a joint stock company whose shares may only be distributed among its founders or within another predetermined group. A closed joint stock company may not carry out a public/open placement of shares issued or otherwise offer them to an unlimited group of persons. The number of shareholders in a closed joint stock company may not exceed 50; should the number of shareholders in a closed joint stock company exceed 50, the company must be reorganized into an open joint stock company within 1 year. Upon expiry of this period, the company will be subject to liquidation by court order. Shareholders of a closed joint stock company have pre-emptive right to purchase shares offered for sale by other shareholders of the same company.

<sup>46</sup> Article 128 of the Civil Code of the Kyrgyz Republic.

<sup>47</sup> Article 143 of the Civil Code of the Kyrgyz Republic.

An open joint stock company is a joint stock company the participants of which may alienate their shares without the consent of other shareholders. An open joint stock company may carry out open subscription to the shares it issues and may freely sell them on conditions established by law. An open joint stock company that has 500 shareholders or more and has carried out at least one public/open placement of securities must annually within 2 months after the last annual meeting of shareholders, but no later than June 1<sup>st</sup> of the year following the reporting year, publish in the media an annual report on its financial and business performance.

### 4.3 Registration of Legal Entities

In the Kyrgyz Republic legal entities obtain the respective status upon their state registration with the Ministry of Justice of the Kyrgyz Republic or its subdivisions.

Registration of legal entities, branches or representative offices in the Kyrgyz Republic is based on “registration by notification” and “one-stop-shop” principle. State registration of a legal entity is performed within 3 business days<sup>48</sup> from the date of filing the necessary documents for a specified fee.

To be registered, a legal entity must submit the following documents<sup>49</sup>:

- (i) The application for registration;
- (ii) The decision of the founder(s) to establish a legal entity;
- (iii) A legalized excerpt from the trade register or other proof that the foreign legal entity which is a founder of the legal entity is in good standing under the laws of its country.
- (iv) A copy of passport (or other document deemed to be the proof of identity under Kyrgyz law) of an individual being the head of the legal entity.

For the establishment of a branch or representative office of financial institutions, foreign or international organizations, a written consent of the National Bank of the Kyrgyz Republic is required.

For registration of financial institutions, the following documents are additionally submitted to the registering authority:

- The application for registration;
- The decision of the founder(s) to establish, approve (execute) the foundation documents and to elect the management bodies of the financial institution;
- The charter signed by the head of the financial institution in 2 copies;
- The foundation agreement of the financial institution signed by all its founders in 2 copies.

### 4.4 Business Reorganization and Restructuring

Reorganization of a legal entity (merger, acquisition, split-up, spin-off, and conversion) may be carried out by the decision of its founders/participants or the body of the legal entity authorized by its founding documents, or, the regulatory authority for banks, financial institutions or other entities licensed to perform operations being their only permitted activity.

To restrict monopolistic practices, commercial organizations may be subject to compulsory reorganization by court order under the circumstances and in the manner provided by law.

<sup>48</sup> State registration of financial institutions, non-commercial organizations, as well as branches of financial institutions, foreign and international organizations within 10 calendar days from the date of submitting necessary documents to the registering authority.

<sup>49</sup> Articles 10 and 11 of the Law: “On State Registration of Legal Entities, Branches (Representative Offices)”.

**A merger of legal entities** is an arrangement whereby their rights and obligations are transferred to the newly established legal entity under a transfer deed.

**An acquisition** of a legal entity by another legal entity is an arrangement whereby the rights and obligations of the acquired company are transferred to the acquiring legal entity under a transfer deed.

**A split-up** of a legal entity is an arrangement whereby its rights and obligations are transferred to the newly established legal entities under a separation balance sheet.

**A spin-off** of one or more legal entities from the original legal entity is an arrangement whereby the rights and obligations of the reorganized legal entity are transferred to each of them under a separation balance sheet.

**A conversion** of a legal entity of a given type into a legal entity of another type (change in the legal form of organization) is an arrangement whereby the rights and obligations of the reorganized legal entity are transferred to the newly established legal entity under a transfer deed.

A transfer deed and a separation balance sheet are the documents required for reorganization of a legal entity. They must contain provisions on legal succession with respect to all liabilities of the legal entity reorganized. The transfer deed and separation balance sheet shall be approved by the founders/participants of the legal entity or the authority that has taken the decision to reorganize, and shall be submitted together with the founding documents for state registration of the newly established legal entities or for amendment of the founding documents of existing legal entities.

In the case of reorganization of a legal entity, its founders must notify the creditors in writing to this effect. Under Kyrgyz law, in case of reorganization of business entities under the circumstances provided by the anti-monopoly law, the consent of the anti-monopoly authority of the Kyrgyz Republic is required.

## 4.5 Business Closure

Liquidation of a legal entity entails its termination without transferring its rights and obligations to any other persons.

A legal entity may be liquidated:

- By the decision of the founders (participants) or the authorized body of the legal entity under the circumstances provided by the founding documents, including in connection with the expiration of the term for which the legal entity was established, or achievement of the purpose for which it was established, or invalidation of registration of the legal entity by the court as being established with irremediable violations of law; or
- By the decision of the court in the event of engaging in business without proper permit (license) or in business prohibited by law, or with other repeated or gross violations of law, or in the event of persistent engaging in business that is contrary to statutory goals of the legal entity; or in the event of revoking the license of banks, financial institutions, or other entities licensed to perform operations being their only permitted activity; and in such other cases as may be provided by law.

Liquidation of banks or financial institutions licensed by the National Bank of the Kyrgyz Republic occurs in the event of revocation of the banking license, subject to specific requirements for banks and other financial institutions.



The authorized body of the legal entity or the court that made a decision to liquidate the legal entity must notify the registration authority to this effect in writing within 3 business days enclosing a copy of the decision to liquidate the legal entity and to elect (appoint) the liquidation committee (liquidator)<sup>50</sup>. To register its termination, the legal entity must submit to the registration authority the following documents:

- (i) The application for termination of registration;
- (ii) The decision of the authorized body of the legal entity or the court to liquidate the legal entity and to elect (appoint) the liquidation committee (liquidator);
- (iii) The certificate of state registration (re-registration) of a legal entity;
- (iv) A statement of no debt on social security payments to the office of the Social Fund of the Kyrgyz Republic;
- (v) A statement of no debt on tax payments to the office of the State Tax Service under the Government of the Kyrgyz Republic;
- (vi) A statement of surrender of seals and stamps to the internal affairs authority;
- (vii) The decision to approve the liquidation balance sheet;
- (viii) A statement of repositioning the documents of the liquidated legal entity with the Kyrgyz Archives Agency.

In 2015, the Parliament of the Kyrgyz Republic passed the Law of the Kyrgyz Republic “On Amendments to Certain Legislative Acts of the Kyrgyz Republic”<sup>51</sup> which proposed changes aimed at simplifying the procedures of liquidation and registration of business entities. The legislative acts governing the liquidation of legal entities were amended by removing the overlapping provisions, as well as administrative barriers in order to facilitate the process of liquidation.

## 4.6 Business Activity without Creating a Legal Entity

Under Kyrgyz law<sup>52</sup>, a business can be organized as a legal entity or its branch, or as a sole proprietorship, which is a non-corporate form of doing business. Nationals of the Kyrgyz Republic, foreign nationals, and stateless persons permanently or temporarily residing within the territory of the Kyrgyz Republic may do business as sole proprietors.

Such form of business organization is not only attractive due to its simplified structure, state registration requirements and accounting procedures, but is also risky in terms of unlimited property liability for business obligations.

Under Kyrgyz law, a business can be operated as a sole proprietorship in two ways:

- Based on a certificate of state registration as a sole proprietor;
- Based on a patent.

A certificate of state registration as a sole proprietor is issued by the local tax offices that are closest to the place of registration according to passport data, place of residence or place of business of a sole proprietor.

<sup>50</sup> Article 13 of the Law: “On State Registration of Legal Entities, Branches (Representative Offices)”.

<sup>51</sup> The Law of the Kyrgyz Republic “On Amendments to Certain Legislative Acts of the Kyrgyz Republic (on simplifying of procedures of registration and liquidation of business entities)” dated May 22, 2015 No. 115.

<sup>52</sup> Regulation on procedure of tax registration of taxpayers in the Kyrgyz Republic approved by KR Government Resolution dated April 7, 2011 No. 144 (with latest amendments as of January 16, 2016 No. 12 ).

Once registered as a sole proprietor, it is necessary to apply for registration as a taxpayer or social insurance payer with the respective subdivisions of the Social Fund.

When running their business, a sole proprietor must keep simplified accounting books reflecting income gained and expenses incurred. Income and expenses shall be recorded in a special Income and Expenditure Log that must be numbered, laced, sealed, and registered with the local tax authority.

Sole proprietors may engage in entrepreneurial activities without the need to register, provided that they operate on the basis of a patent, if the respective business activities are included in the conclusive list of patent-based activities<sup>53</sup> or if such activities are subject to mandatory taxation on a patent basis<sup>54</sup> (for more detail on patenting refer to Section 6.11).

A patent is a document issued by the tax authority to certify payment of the respective tax by individuals in the area of their registration (permanent residence) or main place of business. Thus, a sole proprietor operating on the basis of a patent is not required to report to tax authorities and only needs to purchase a patent and then keep extending its validity period. The patent validity period varies from 1 month to 1 year.

A patent holder is not required to keep record of income and expenses in connection with the activities stated in the patent during the patent validity period, nor is he required to pay income tax on this income, nor is he required to include the above income in the aggregate annual income when declaring his income at the end of the year, as is required by law for a sole proprietor operating on the basis of the certificate of state registration.

Thus, the law sets forth both voluntary and mandatory patenting procedures depending on the type of business. However, if a sole proprietor operating on the basis of a patent receives income, which, during a calendar year, exceeds a threshold for VAT registration (for more detail refer to Section 6.3), a tax authority must stop issuing patents and require this sole proprietor to register for VAT and to receive a certificate of registration as a sole proprietor.

A sole proprietor may terminate its operation on the basis of their own application or court decision. In which case, termination is performed in accordance with the company liquidation rules.

## 4.7 Free Economic Zones

Free economic zones (the FEZ) are the zones where foreign economic and business activities<sup>55</sup> are subject to preferential legal treatment.

Companies working in free economic zones enjoy the following benefits and preferences:

- Partial exemption from all taxes, dues, fees, and charges, for the entire period of activities within the free economic zone;
- Allocations in the amount of 0.1 to 2% from the annual proceeds from goods and services to the General Directorate of the free economic zone for the tax and other benefits enjoyed within its territory<sup>56</sup>;

<sup>53</sup> Resolution No. 733 of the Government of the Kyrgyz Republic dated June 25, 2015 No. 418 (with the latest amendments as of October 22, 2015 No. 723).

<sup>54</sup> Resolution of the Legislative Assembly of the 'Jogorku Kenesh' of the Kyrgyz Republic No.3 418-II of June 29, 2001 (with the latest amendments as of December 26, 2003).

<sup>55</sup> The Law of the Kyrgyz Republic "On Free Economic Zones in the Kyrgyz Republic" dated December 16, 1992 (with the latest amendments as of July 7, 2011).

<sup>56</sup> For more detail on FEZ taxation refer to Section 6.11.

- Simplified entry and exit procedure for foreign employees;
- Simplified and accelerated registration of a business entity;
- Simplified customs procedures; and
- Direct access to major infrastructure objects, including telecommunications, water supply, power supply, and transportation, in the course of activities within the territory of a free economic zone.

Companies registered in free economic zones are prohibited from:

- development and production of mineral resources;
- import, production and sale of excisable goods, except those meant for production purposes and production of goods other than excisable goods, after payment of taxes and customs duties in accordance with the laws of the Kyrgyz Republic;
- production, repair and sale of weapons and ammunition, production and sale of explosives used in production of weapons;
- production, processing, storage, deactivation, sale of radioactive, nuclear and other hazardous materials;
- import, storage, production and sale of narcotic and psychotropic substances, except precursors used in production purposes and imported in accordance with the laws of the Kyrgyz Republic.

Companies interested in operating in a free economic zone must be registered in it. Procedure for registration of business entities with foreign interest is established by the General Directorate of a free economic zone.

Currently, there are 5 free economic zones functioning within the territory of the Kyrgyz Republic: the **Bishkek** FEZ, the **Maimak** FEZ, the **Naryn** FEZ, the **Karakol** FEZ and **Leilek** FEZ<sup>57</sup>.

<sup>57</sup> Resolutions of the Government of the Kyrgyz Republic No. 160 dated April 19, 1993 (with the latest amendments as of June 29, 2007), No. 13 dated January 12, 1994 (with the latest amendments as of August 11, 1994), No. 474 dated November 11, 1995 (with the latest amendments as of September 26, 2008), No. 357 dated June 20, 1997; dated July 23 2012 No. 518.

## 5. LICENSES AND PERMITS

### Legislation

Licensing is regulated by the Law of the Kyrgyz Republic “On Licensing and Permits System in the Kyrgyz Republic”<sup>58</sup>. Banks, financial/lending institutions, and other institutions regulated by the National Bank of the Kyrgyz Republic are licensed subject to special laws<sup>59</sup> to the extent not inconsistent therewith. The procedure for issuing licenses for the use of mineral resources, including the procedure for the extension, suspension, termination or transfer of such licenses as well as the license conditions, license control, fees and charges are regulated by the legislation of the Kyrgyz Republic in the field of mineral resources. The procedure for issuing licenses and permits to carry out foreign trade activity is determined in accordance with the legislation of the Kyrgyz Republic in the field of foreign economic activity and the requirements of international treaties and acts constituting the law of the Eurasian Economic Union in the field of licensing. The export, import and transit of goods included in the common list of goods subject to prohibitions and restrictions on import or export by the member-states of the Eurasian Economic Union within the borders of the Eurasian Economic Community in trade with third countries are subject to non-tariff regulatory measures and restrictions in accordance with provisions of international treaties and acts constituting the law of the Eurasian Economic Union.

Licenses are issued on equal conditions and grounds to all persons (including stateless persons), regardless of the form of ownership.

Licenses are only required for activities and operations specified by law and to the extent necessary to maintain national security, government monopoly, law and order and to protect the environment, ownership, life and health of citizens. Under Kyrgyz law, licensing is mandatory for the following activities:

- Production, transmission, distribution, sale, export and import of electricity (except electricity produced from renewable sources or from other sources for personal use with capacity up to 1,000 kWh);
- Production, transmission, distribution, sale, export and import of heat (except heat produced from renewable sources or from any sources for personal use);
- Processing of oil and natural gas, except industrial-scale production and sale of bioethanol produced from vegetable feed;
- Production, transfer, distribution, and sale of natural gas;
- Production and distribution of ethyl alcohol;
- Production and distribution (storage for production or sale purposes, wholesale and retail trade) of alcoholic products;
- Private medical practice (except under a service or employment contract with private medical institutions or individual entrepreneurs);
- Production, manufacture and sale of medicines and medical equipment;
- Production and sale of vaccines and serums in specialized veterinary enterprises;
- Activities involving work with RG2 microorganisms;
- Activities in the field of electric communication;
- Activities in the field of postal communication;
- Activities in the field of data transfer;
- TV and radio broadcasting activities, including production, transmission, and distribution of broadcasting programs;

<sup>58</sup> The Law of the Kyrgyz Republic “On Licensing and Permits System in the Kyrgyz Republic” No. 195 dated October 19, 2013 (with the latest amendments as of June 28, 2016).

<sup>59</sup> For more information on banking refer to Section 9.

- Urban planning, research and design of residential, public and production buildings and structures (Category I, II and III facilities);
- Construction and installation operations, except construction of individual residential houses (Category I, II and III facilities);
- Passenger transport services by motor vehicle (except taxi cars);
- International cargo transportation by truck;
- Passenger and (or) cargo transportation by air;
- Aircraft ground handling in airports (aerodromes) during arrival and departure, except maintenance and (or) repair of aircrafts;
- Passenger and (or) cargo transportation by water;
- Banking operations specified by the legislation of the Kyrgyz Republic in the field of banking, micro-finance, payment systems and funds transfer, credit information exchange and credit union activities;
- Credit union activities;
- Microfinance activities;
- Pawn shop activities;
- Foreign currency exchange services;
- Credit bureau activities;
- Payment intermediary services effectuated through IT-based and electronic payment systems;
- Acceptance, processing, and issuance of financial information (processing and clearing services) relating to payments and settlements between third parties and participants of the payment system of a given processing or clearing center;
- Lottery activities (except stimulating lottery);
- Transportation (including trans-boundary transportation) of toxic substances, including radioactive waste;
- Design, manufacture and sale of military products (munitions, military equipment, military-technical property, documentation, intellectual property, military-technical information referred to military products under Kyrgyz law) and military services (maintenance, upgrade, disposal of munitions, military equipment and their transportation, supply, and storage);
- Production, use, disposal of industrial explosive materials;
- Sale of explosive substances and products (including pyrotechnic ones);
- Production, repair, and trade in weapons and munitions;
- Design, production, manufacture, processing, storage, issue, sale, purchase and distribution of narcotic drugs, psychotropic substances and their precursors;
- Advocate practice;
- Private notarial practice;
- Voluntary universal life insurance services;
- Voluntary personal insurance services;
- Voluntary property insurance services;
- Voluntary liability insurance services;
- Mandatory insurance services;
- Mandatory and voluntary inward reinsurance services;
- Non-governmental pension fund activities;
- Organized market for trading securities;
- Securities broker services;
- Security holders registry keeper services;
- Securities depository services;
- Securities dealer services;
- Investment fund activities;
- Investment trust activities;

- Audit services;
- Bankruptcy administration services;
- Design, installation, adjustment and repair of anti-fire automatic devices; flameproofing of wooden structures and combustible theatrical display equipment;
- Educational activities (except state and municipal educational institutions carrying out pre-school, primary, basic and secondary general education programs);
- Import, export of arms and ammunition, as well as other products of military purpose according to the list approved by the Government of the Kyrgyz Republic;
- Import, export, re-export of goods included in the National checklist of controlled products of the Kyrgyz Republic approved by the Government of the Kyrgyz Republic;
- Insurance broker activities;
- Actuarial activities;

Also, licensing is mandatory for the following activities involving the use of limited public resources:

- Using radio frequency spectrum to provide electrical communication and (or) data transmission services;
- Taking timber from the woodland at woods of the forestry fund (felling license, small-scale timber supply permit);
- Taking flora resources for commercial purposes (flora resources taking permit, forest use permit);
- Disposal, storage, burial and elimination of toxic waste, including radioactive waste;
- Mineral tenure related activities (prospecting, exploration, or mining of mineral resources, including extraction and use of underground water, geological mapping and regional geological, geophysical and other scientific researches, building and operation of non-mining underground facilities, collection of mineralogical, paleontological materials for commercial purposes, collection of rock materials for decorative purposes and for their use as ornamental stones and building materials, and non-exploration and non-mining mineral tenure);
- Generation, use, processing, formation, storage, and elimination of substances which can form explosive mixtures (filling stations which fill compressed or liquefied gas cylinders);
- Generation, formation, storage, use and elimination of highly toxic substances.

### **List of operating permits**

Permits are required for the following operations:

- Import of used automobile tires as waste for recycling purposes;
- Blasting operations;
- Mining operations;
- Import and export of ore and rock samples, concentrates, residues and laboratory tests for analytical research;
- Purchase of alluvial gold and gold concentrate;
- Import of commodities of plant origin under quarantine;
- Work permit issued to foreign citizens and stateless persons at employers' request based on overall quota in the territory of the Kyrgyz Republic;
- Employment of Kyrgyz citizens abroad;
- Transit of weapons and military equipment through the territory of the Kyrgyz Republic;
- Import, export, transit through the territory of the Kyrgyz Republic of narcotic drugs, psychotropic substances and their precursors;
- Purchase, storage, transportation, carrying, collection, display, of civilian and duty weapons and munitions;
- Purchase and sale of highly toxic substances;

- Purchase, sale, storage, transportation, carrying, import, export of special means approved by the Government of the Kyrgyz Republic;
- Test fishing for scientific purposes;
- Placement of waste in the environment;
- Discharge of pollutants into the environment;
- Release of pollutants into the atmosphere by stationary sources of pollution;
- Entry and exit from foreign country during international cargo transportation by truck;
- Transit through the territory of a foreign state during international cargo transportation by truck;
- International cargo transportation by truck;
- Cargo transportation to or from third countries during international cargo transportation by truck;
- International passenger transportation (regular and irregular);
- Transportation of dangerous goods;
- Storage of explosives materials used for industrial purpose;
- Storage of pyrotechnic products ;
- Import of pyrotechnic products to the Kyrgyz Republic;
- Purchase of explosives materials;
- Import to the Kyrgyz Republic of radio-electronic means (REM) and high-frequency devices (HFD), other technical means emitting radiofrequency radiation or high-frequency electromagnetic waves;
- Frequency acquisition for operation of radio-electronic means;
- Import and export of goods (products) subject to veterinary control;
- Transit through the territory of the Kyrgyz Republic of goods (products) subject to veterinary control;
- Transit through the territory of the Kyrgyz Republic of goods included in the National Checklist of controlled products of the Kyrgyz Republic approved by the Government of the Kyrgyz Republic;
- Development, production, sale, purchase, storage, transportation of special technical means used for surreptitious obtaining of information

### **Licensing Authorities**

Licenses are issued by the competent governmental authorities (licensors) exercising control over licensed activities. The list of the governmental authorities issuing licenses is set forth in the laws and acts of the Government of the Kyrgyz Republic.

Licenses issued in other countries are recognized valid in the Kyrgyz Republic as long as appropriate international treaties are in place.

### **License Issuance**

To obtain a license, an applicant shall submit to the competent governmental authority the following documents:

1. The standard application form;
2. A copy of proof of identity document (for individuals);
3. A copy of certificate of state registration of a legal entity or individual entrepreneur;
4. A copy of proof of payment of the application fee and the license and (or) permit fee;
5. Copies of documents set forth in the Regulation on Licensing of Certain Business Activities approved by the Government of the Kyrgyz Republic.

A licensor may not demand from the applicant any documents other than those provided by law or regulations. All documents submitted for the purposes of obtaining a license shall be duly registered

by the competent authority. Applicants may apply for licenses and (or) permits online through licensors' websites by completing and submitting their application forms and scanned copies of original registration documents. In return, they receive the licensor's confirmation indicating the date of receipt of the application and the list of the documents submitted online. Applicants may apply for an electronic license and (or) permit by indicating this in the application form.

Licenses are issued within thirty calendar days from the date of filing an application with all the required documents. The only exception is the license to use radio-frequency spectrum requiring coordination with neighboring countries of the Kyrgyz Republic.



## 6. TAXES AND CHARGES

Taxation in the Kyrgyz Republic is regulated by the Tax Code of the Kyrgyz Republic and other regulatory legal acts. The authority determining the tax policy of the Kyrgyz Republic is the Ministry of Economy of the Kyrgyz Republic. The competent authority exercising control over compliance with tax laws and full and timely payment of taxes is the State Tax Service under the Government of the Kyrgyz Republic.

Among mandatory charges are social security contributions to the Social Fund of the Kyrgyz Republic regulated by the Law “On State Social Security”, the Law “On Tariffs of Social Security Contributions for State Social Security”, and other acts.

For more information on social security contributions, fees and other mandatory charges please refer to points 6.9, 6.10 of this section.

### Types of Taxes

The current Tax Code was enacted in October 2008 and took effect on the 1<sup>st</sup> of January, 2009.

According to it, nowadays, the following taxes are paid in the Kyrgyz Republic under the general tax regime.

#### National taxes such as:

- Profit tax
- Income tax
- Value added tax
- Excise tax
- Mining taxes (Bonuses and Royalties)
- Sales tax

#### Local taxes such as:

- Land tax
- Property tax

For taxation purposes, legal entities are divided into domestic and foreign entities. Domestic entities are legal entities organized under the laws of the Kyrgyz Republic, and foreign entities are corporations, companies, firms, foundations, institutions or other formations organized under the laws of a foreign state, or international organizations. Foreign entities, in their turn, are divided into foreign entities operating through a permanent establishment in the Kyrgyz Republic, and foreign entities not operating through a permanent establishment in the Kyrgyz Republic.

### Foreign entities operating through a permanent establishment in the Kyrgyz Republic

**A foreign entity** operating through a permanent establishment in the Kyrgyz Republic becomes a taxpayer along with domestic entities.

**Permanent establishment** is a permanent place of business through which a foreign entity operates fully or partially and covers:

- Management headquarters;
- Division;
- Office;
- Factory;
- Workshop;
- Mine, oil or gas well, quarry or any other mineral mining sites;
- Land plot;
- Construction site, or building or assemblage facility, or relevant works supervision services (if such site or facility exists for 183 or more calendar days, or if such services are provided for 183 or more calendar days within any 12-month period);
- Installation or structure used in the exploration of mineral resources, or supervision services, or drilling installation or ship used to explore mineral resources (if such use lasts for 183 or more calendar days or if such services are provided for 183 or more calendar days within any 12-month period);
- Rendering of services including consulting services rendered by a non-resident through personnel hired by this non-resident (if such personnel conduct such activities in the territory of the Kyrgyz Republic during 183 or more calendar days within any 12-month period).

### **Foreign entities not operating through a permanent establishment in the Kyrgyz Republic**

If a foreign entity is not operating through a permanent establishment in the Kyrgyz Republic, but it derives income from the sources located within the Kyrgyz Republic, for taxation purposes, it is treated as a foreign entity not operating through a permanent establishment in the Kyrgyz Republic. In this case, an individual entrepreneur or legal entity paying income to such foreign entity must assess, withhold, and transfer to the budget the amount of tax on income received from a source in the Kyrgyz Republic by a foreign entity not operating through a permanent establishment in the Kyrgyz Republic, without deductions at the following rates:

- For insurance payments under insurance agreements or risk re-insurance agreements (except mandatory insurance agreements), income from international telecommunication or international transportation services between the Kyrgyz Republic and other countries, the rate is 5%;
- For dividends and interest income (except interest income from securities listed on the Kyrgyz stock exchange in the highest and second highest listing categories), insurance payments under agreements of compulsory insurance or reinsurance against risks, author's honoraria, royalties, income from services and works, the rate is 10%;
- Until January 1, 2017, (a) for dividends and interest income from works and/or services received from the leasing company, the rate is 1% and (b) for author's honoraria or royalties received from the leasing company, the rate is 0%;
- Dividends of a foreign organization not having a permanent establishment in the Kyrgyz Republic that are qualified as part of the profit subject to a 0% profit tax are subject to a 0% tax at source in cases provided by the Tax Code.

## **6.1 Profit Tax**

**Payers** of profit tax include domestic entities, foreign entities operating through a permanent establishment in the Kyrgyz Republic, sole proprietors, as well as tax agents paying income from a source in the Kyrgyz Republic to foreign entities not operating through a permanent establishment in the Kyrgyz Republic.

**Object of taxation** is the income received from business activities by:

- A domestic entity or sole proprietor from a source within or outside the Kyrgyz Republic;
- A foreign entity or non-resident individual operating through a permanent establishment in the Kyrgyz Republic from a source in the Kyrgyz Republic.

**Tax base** is the profit calculated as a positive difference between a taxpayer's gross annual income and expenses deductible under tax law as assessed for the tax period. At that, small and medium enterprises may calculate their taxable profit under the simplified procedure.<sup>60</sup> For foreign organizations receiving income at source in the Kyrgyz Republic and not having a permanent establishment in the Kyrgyz Republic, a tax base is an income without deductions.

**Gross annual income** includes all types of income identified in accordance with the accounting rules set forth in Kyrgyz law.

Gross annual income does not include **non-taxable income** including:

- Value of property received as a share input and/or contribution to the charter capital and/or other types of input in the organization in which a business entity is a participant;
- Value of fixed assets gratuitously transferred to an organizations and money used as capital investments to develop its own production base by the decision of the Kyrgyz Government or local authorities as well as value of facilities (to be used for social, cultural, housing, communal or household purposes, roads, electric networks, substations, boiler rooms, heating networks, gas networks, hydroelectric power facilities, thermoelectric power facilities, hydrotechnical facilities, water intake facilities, mining equipment, civil defence facilities, and land use rights) gratuitously transferred to ownership of business companies with state participation interest of more than 50% and/or specialized organizations owned by the Kyrgyz Republic or local authorities engaged in use and operation of the said facilities for their intended purpose;
- Received by non-profit organizations: (a) membership and entrance fees; (b) humanitarian aid and grants, provided that they are used only for the purposes stated in the charter; (c) value of gratuitously received assets provided that they are used only for the purposes stated in the charter; fee for technical maintenance of multi-apartment houses and servicing buildings and structures; fee for irrigation water supplied by water user associations to their members in the framework of the activity stated in the charter; (e) fee for religious rites, rituals, ceremonies, pilgrimage services and voluntary endowments;
- Dividends received by taxpayers on income from participation in local companies;
- Value of property received by general partnership as contributions of partners;
- Value of property in trust management;
- Gain in the value of treasury shares (excess over par value);
- Gain in the value of sold treasury shares;
- Interest and gain in the value of securities listed on the stock exchanges in the highest and second highest listing categories on the date of sale;
- Income from sale of fixed assets under a finance lease (leasing) agreement until January 1, 2017.

<sup>60</sup> Small and medium enterprises mean payers of profit tax, except entities providing financial, insurance, investment fund or professional securities market services, and payers of excise tax whose proceeds from sale of goods, works or services, net of VAT and sales tax, do not exceed 30 million soms per calendar year.

**Expenses fully or partially deductible from the gross annual income include:**

- Expenses incurred in connection with interest paid on credits and loans;
- Expenses incurred in the process of scientific research, construction, research and design works;
- Fixed asset depreciation amounts (at normal rates);
- Expenses incurred in connection with the repair of fixed assets (in a certain amount);
- State social security deductions ;
- Losses incurred in connection with the sale of securities;
- Provision for probable loan losses and bank contributions to Deposit Protection Fund;
- Charity expenses (in a certain amount);
- Personnel training and re-training expenses;
- Business trip expenses;
- Representation expenses;
- Other documented income generation expenses.

Tax legislation sets forth a list of **expenses not deductible from the gross annual income**, including:

- Tax sanctions, penalties and default interests paid to the national budget and to the Social Fund of the Kyrgyz Republic;
- Expenses related to production, acquisition and installation of fixed assets and other capital expenditures;
- Profit tax, value added tax (except VAT not subject to set-off), sales tax (except sales tax paid to suppliers during the purchase of goods, works or services), excise tax (except non-deductible excise tax);
- Expenses related to purchase, operation or maintenance of any property income from which is not taxable according to the Tax Code of the Kyrgyz Republic;
- Any expenses incurred for another person, except those representing payments for the services rendered or dictated by the production necessity as confirmed by a documentary evidence;
- Amount of natural losses above standards established by regulatory legal acts effective in the Kyrgyz Republic;
- Expenses that are not capable of being identified by supporting documents except in cases specified by the Tax Code of the Kyrgyz Republic;
- Amounts of non-income generating expenses;
- Expenses incurred to generate income not subject to profit tax;
- Some other types of expenses.

For taxpayers engaged in extraction and sale of gold ore, concentrate, alloy and refined gold<sup>61</sup> the rate of the profit tax rate is **0%**. Local entities engaged in various areas of production and sale of own goods, including production and sale of goods received as a result of processing of goods in the Kyrgyz Republic, by using only the new equipment<sup>62</sup>, may, during 5 consecutive years, pay the profit tax at the rate of **0%** if they meet the criteria established by the Tax Code. From January 1, 2017 till January 1, 2022, for leasing companies the rate of the profit tax will be **5%**. Some entities are exempt from the profit tax (e.g. leasing companies until January 1, 2017, credit unions, charitable organizations, agricultural producers, etc.). For all other taxpayers, the rate of the profit tax is **10%**.

61 Taxpayers engaged in extraction and sale of gold ore, concentrate, alloy or refined gold pay income tax at rates ranging from 1% to 20% depending on the value of gold. Taxable income is the proceeds (net of VAT and sales tax) from sale of gold alloy and refined gold, and the value of gold in ore and concentrate calculated on the basis of world market prices in the manner specified by the Kyrgyz Government.

62 The new equipment means fixed assets imported to the Kyrgyz Republic after May 1, 2015 and not used therein before this date, or immovable property owned by the local entity or used by it under the financial lease (leasing) agreement. The new equipment does not include the fixed assets imported by the taxpayer after May 1 and used for extension or modernization of fixed assets or production facility acquired or produced by the taxpayer before May 1, 2015.

## 6.2 Income Tax

**Payers** of income tax are Kyrgyz citizens, resident non-Kyrgyz citizens and non-resident non-Kyrgyz citizens receiving income from a source in the Kyrgyz Republic, and tax agent (entity or sole proprietor) paying income to individuals from a source in the Kyrgyz Republic.

**Object** of taxation is:

- 1) economic activity, except business activity, resulting in income generated:
  - from a source within and/or outside the Kyrgyz Republic – in respect of Kyrgyz citizens and resident non-Kyrgyz citizens;
  - from a source within the Kyrgyz Republic – in respect of non-resident non-Kyrgyz citizens;
- 2) generation of any other income.

**Tax base** is income estimated as the difference between the gross annual income, received by a taxpayer over the tax period, and deductions required by Kyrgyz tax legislation, but in any case representing not less than a minimum estimated income for the income tax period annually set by the State Tax Service of the Kyrgyz Republic.

The income tax period is one calendar year,

The income tax rate is **10%**.

## 6.3 Value Added Tax

Value added tax (VAT) is a tax collected and remitted to the government on the value of VAT-taxable supplies in the territory of the Kyrgyz Republic, including taxable import supplies to the Kyrgyz Republic.

**Payers** of VAT are taxable entities and/or entities performing taxable import operations.

Under Kyrgyz tax legislation, an entity is subject to taxation if it has been or must be registered for VAT. A business entity must register for VAT if, during 12 consecutive months or less, it has been making taxable supplies of goods, works or services in the territory of the Kyrgyz Republic for the amount exceeding 8 million KGS. The entity which is not required to register for VAT may register for VAT voluntarily.

**The object** of VAT taxation includes:

- Taxable supplies; and
- Taxable import.

**Taxable supplies.** Under Kyrgyz tax law, taxable supplies carried out by a taxable entity include the following supplies except non-taxable supplies:

- Supplies of goods in the territory of the Kyrgyz Republic;
- Supplies of works and services in the Kyrgyz Republic for a fee;
- Export of goods from the Kyrgyz Republic.

Taxable supplies are subject to **12%** VAT, except VAT taxable supplies subject to a zero rate or a **20%** VAT rate.

**Zero VAT** taxable supplies include the following:

- Export of goods, except export of gold and silver alloy and refined gold and silver;
- International carriage of passengers, luggage and cargos, except carriage by rail;
- Transit flights and related international carriage catering services, except international carriage by rail;
- Services related to the supply of electricity to pump stations supplying irrigation water to the fields and drinking water to the population.

**20% VAT** taxable supplies made by taxable entities from the 1<sup>st</sup> of January, 2009 include supplies of:

- Residues of material resources except fixed assets as of the 1<sup>st</sup> of January, 2009 acquired and produced during the period starting on the date this entity was registered for VAT and ending on the 31<sup>st</sup> of December, 2008;
- Goods brought across the border of the Kyrgyz Republic before the 1<sup>st</sup> of January, 2009.

**Taxable import.** Taxable import means the import of goods into the territory of the Kyrgyz Republic in accordance with the customs legislation of the Customs Union and/or the customs legislation of the Kyrgyz Republic, except for import of VAT exempt goods.

Supplies of goods treated as taxable import are subject to **12% VAT**.

Thus, if an entity is registered or is required to register as a VAT payer, such entity must pay tax both on taxable supplies and on taxable import. If an entity is not registered nor is required to register as a VAT payer, such entity must pay VAT on taxable import only.

**Exempt supplies** include **exempt** supplies and supplies **outside the scope of VAT**. Kyrgyz tax legislation sets forth a list of exempt supplies, including:

- Supply of land, except allocation of trading spaces and parking areas;
- Supply of residential buildings and premises, except lease of inns, boarding houses, resort and health centres;
- Supply by an agricultural producer of its own agricultural products and processed products;
- Supply of goods, works and services of food and processing enterprises (except excisable goods used in production) processing local agricultural raw products according to the list approved by the Kyrgyz Government;
- Supply of public utilities to a physical person for household purposes;
- Supply of own goods, works, or services by correctional institutions and enterprises of the Kyrgyz penal system;
- Supply of prosthetic and orthopaedic items, supply of specialized goods for handicapped persons including their repair and supply of medicines according to the list determined by the Kyrgyz Government;
- Supply of financial services;
- Supply of property received by banks from their borrowers in repayment of debt to the extent of the amount of the debt;
- Supply of insurance, coinsurance and reinsurance services;
- Supply of pension processing and payment services, and pension funds property management, except lease of property;

- Passenger carriages in the territory of the Kyrgyz Republic, except carriages by car with less than 6 passenger seats;
- International passenger, luggage and cargo carriages by rail;
- Supply of text books, reading books, scientific, artistic literature, magazines, children's literature published in state (Kyrgyz) language;
- Supply of services of processing the goods imported in the customs territory of the Kyrgyz Republic and subject to customs procedure of processing of goods in the customs territory and processing of goods for internal consumption;
- Supply of state property through privatization;
- Supplies by charitable organizations for charitable purposes in accordance with Kyrgyz law on sponsorship and charity;
- Supply of preschool education (private kindergarten) services;
- Supply private cardiac surgery services;
- Supplies related to social security, child and low-income aged people protection, and supplies related to education, medicine, science, culture, and sport and made by a non-commercial organization for a fee not exceeding expenses related to such supplies;
- Gratuitous transfer of socio-cultural, health and fitness, housing and household utilities facilities, roads, power networks, substations, boiling rooms, heating networks, gas networks, hydro-electric power facilities, thermoelectric power facilities, hydrotechnical facilities, water intake facilities, mining equipment, civil defence facilities, gratuitously transferred to ownership of business companies with state participation interest of more than 50% and/or specialized organizations owned by the Kyrgyz Republic or local authorities engaged in use and operation of the said facilities for their intended purpose;
- Gratuitous transfer of fixed assets into ownership of entities by decision of the Kyrgyz Government or local authorities;
- Gratuitous transfer of utility facilities to residential properties or their operators in the manner determined by the Kyrgyz Government;
- Supply by government and municipal authorities of ritual goods and rendering of ritual services to the public related to burial or funeral;
- Supply of mineral fertilizers, chemical plant protection means, animal vaccines and medications according to the list established by the Kyrgyz Government;
- Supply to a local agricultural producer of agricultural machinery manufactured at Kyrgyz enterprises according to the list approved by the Kyrgyz Government;
- Supply and export of golden and silver alloys and refined gold and silver;
- Supplies of goods, works and services by private partners and (or) a project company under the public-private partnership agreement subject to approval by the Kyrgyz Government during the period specified in the public-private partnership agreement;
- Import of certain goods;;
- Import of some fixed assets by business entities registered for VAT directly for their own operational purposes;
- Export of works and services.

All other supplies not included in the list of taxable supplies, taxable import or exempt supplies are treated as supplies falling outside the scope of VAT. For example, sale of an enterprise or an independently operating part thereof by one VAT payer to another VAT payer or entity becoming a VAT payer at the moment of transfer; or transfer of goods from a taxpayer to its agent except when goods are transferred by a taxpayer to an agent as the agent's remuneration.



## 6.4 Excise Tax

**Payers** of excise tax are entities manufacturing excisable merchandise, including on a give-and-take basis, within the Kyrgyz Republic, and/or importing excisable merchandise to the Kyrgyz Republic such as:

- Ethyl alcohol;
- Malt beer;
- Alcoholic drinks;
- Mixtures of alcoholic and non-alcoholic drinks;
- Tobacco products and other products containing tobacco;
- Jewellery and other items or their parts made of precious metals or metals plated with precious metals;
- Oil and oil products.

**The objects of taxation** are:

- Manufacture in the Kyrgyz Republic or import to the Kyrgyz Republic of excisable merchandise;

**Tax base** includes:

- Physical volume of excisable merchandise required to be marked with the excise duty stamp; and/or
- Sale price of excisable merchandise, net of VAT, sales tax and excise tax; and/or
- Customs value of excisable merchandise determined in accordance with the customs legislation of the Customs Union and customs legislation of the Kyrgyz Republic; and/or
- Merchandise market price net of VAT, sales tax and excise tax at the time of transfer by a manufacturer of excisable merchandise as an in-kind payment or gift at the time of transfer of title to guaranteed merchandise to the guarantor or at the time of exchange operation on a free-of-charge basis; and/or
- Physical volume of sold excisable merchandise not required to be marked with the excise duty stamp.

**Basic rates of excise tax** are approved by the Tax Code of the Kyrgyz Republic. Excise tax rates can be changed by the Kyrgyz Government to the extent that such rates do not exceed the basic rate of the excise tax.

## 6.5 Sales Tax

**Payers** of sales tax are domestic entities, foreign entities operating through a permanent establishment in the Kyrgyz Republic and sole proprietors.

**The objects of taxation** are sale of goods, performance of works, rendering of services.

**Tax base** includes the proceeds from sale of goods, works or services, net of VAT and sales tax.

**The sales tax rates** are:

- For the sale of goods, works or services subject to and/or exempt from VAT and payable in cash (except banks and mobile operators):



- a) **1%** for trading activities<sup>63</sup>;
  - b) **2%** for other activities, aside from trading activities.
- For the sale of goods, works or services subject to and/or exempt from VAT and payable in non-cash (except banks and mobile operators) – **0%**;
- For the sale of goods, works or services payable in cash, if such sale of goods, works or services is not a supply subject to or exempt from VAT:
  - a) **2%** for trading activities;
  - b) **3%** for non-trading activities.
- For banks - **2%**;
- For mobile operators – **5%**.

## 6.6 Mining taxes

**Mining taxes** are:

- Bonuses;
- Royalties.

**Bonuses** are one-time payments for the right to engage in mineral exploration and mining activities .

**Payers** of bonuses are domestic entities or foreign entities operating through a permanent establishment in the Kyrgyz Republic or sole proprietors holding mineral rights

**Tax base** is the amount of geological reserves and inferred resources included in the Kyrgyz state cadaster of mineral deposits and occurrences, as well as the depth of water wells.

Also, a bonus is paid in the event of a change in the shareholders and their shareholdings at the rate of 10% or more in proportion to the change in the shareholding, except shareholdings in companies listed on stock exchanges.

**Rates** of bonuses and procedures for their calculation are established by the Kyrgyz Government for all types of minerals according to the classification table depending on the degree of exploration, significance and scale of mineral deposits and/or occurrences, as well as size of the exploration area and depth of water wells.

In respect of the mineral deposits put out to tender, the bonus rate is determined by the Kyrgyz Government individually for each deposit.

**Royalties** are the current payments for the right to engage in production and/or extraction (recovery) of underground water.

**Payers** of royalties are domestic entities, foreign entities operating through a permanent establishment in the Kyrgyz Republic and sole proprietors engaged in:

- (i) mining of mineral resources;
- (ii) extraction (recovery) of underground water;
- (iii) by-product extraction of oil and gas during test prospecting and exploration of hydrocarbons;
- (iv) occasional extraction of minerals for industrial experiment and testing and/or for disaster prevention and recovery.

<sup>63</sup> Trading activities mean the sale of goods purchased for sale.

**Tax base** includes:

- Proceeds, net of VAT and sales tax, from sale of mineral resources or products resulting from the processing of mineral resources; and/or
- Volume of sold products in specie; and/or
- Volume of water extracted from subsoil according to water gauge – for royalty payers except specialized water supplying entities.

**Rates** of royalties are set forth in the Tax Code of the Kyrgyz Republic as a percentage of proceeds or as the amount in KGS per unit of volume depending on the type of a mined (extracted) mineral and the amount of mineral reserves.

## 6.7 Land tax

**Payers** of land tax are entities treated as land owners or users whose land use rights are certified by standard title documents and actual owners and/or users of land plots.

**The objects** of taxation are the ownership right and the temporary possession and use right to the agricultural lands and areas subject to land tax.

**Tax base** is the area of the land plot.

**Basic rates** of land tax are set forth in the Tax Code of the Kyrgyz Republic depending on the location and purposes of the land plots.

Land tax is calculated according to the formula set forth in the Tax Code of the Kyrgyz Republic for each of:

- agricultural areas;
- settlement lands and non-agricultural lands;
- orchard and garden areas,

by multiplying the area of the land plot by the basic rate of the land plot and applicable coefficients.

## 6.8 Property tax

**Payers** of property tax are entities and individuals that own taxable property such as:

- Residential property (residential houses, apartments, summer houses) meant for permanent or temporary residence and not used for business purposes (group 1);
- Residential property (residential houses, apartments, summer houses), boarding houses, holiday hotels, health resorts, resorts, production, administrative, industrial and other buildings and structures meant or used for business purposes (group 2);
- Temporary structures made from metal or other materials and used for business purposes, such as kiosks, sheds, and other similar property (group 3);
- Transport vehicles, including self-propelled machinery (group 4).

**The objects** are the property holdings.

**Tax base** includes:

- With respect to the property falling under groups 1, 2 and 3, taxable value of the property determined in the manner specified in the Kyrgyz Tax Code;

- With respect to the property falling under group 4:
  - a) engine capacity or book value for internal-combustion engine vehicles or those without such engine;
  - b) value determined in the manner established by the Kyrgyz Government for transport vehicles without internal-combustion engine and book value.

**The property tax rates are:**

- For property in group 1, the rate is **0.35%**;
- For property in groups 2 and 3, the rate is **0.8%**; and
- For property in group 4:
  - a) for internal-combustion engine vehicles or those without such engine, a fixed amount set forth in the Kyrgyz Tax Code **per 1cm<sup>3</sup> of the engine capacity** of the taxable transport vehicle depending on its type and period of operation, or **0.5% of its book value**;
  - b) for transport vehicles without internal-combustion engine and book value, **0.5% of the value determined in the manner established by the Kyrgyz Government**.

## 6.9 Deductions to the Social Fund of the Kyrgyz Republic

**Payers** of state social security contributions are:

- Legal entities, regardless of their legal structure or type of ownership, and their standalone subdivisions (branches and representative offices);
- Peasant (husbandry) farms;
- Individuals.

Rates and base of social security contributions are set by the Law “On Tariffs of State Social Security Contributions” depending on the payer’s status, tax regime, type of activity and other factors. For employers, the rates of social security contributions are set at **up to 17.25%** of all types of payments due to employees hired by them for permanent or temporary job. For employees, the rates of social security contributions are set at **up to 10%** of all types of payments due to employees. In such case, employers are responsible for the proper assessment, withholding and remittance of both parts of social security contributions.

## 6.10 Mandatory fees and other charges

Additionally, Kyrgyz law imposes certain mandatory fees and other charges on business entities depending on their status and type of activity, such as customs duties (refer to section 15), license fees, waste disposal fees, local infrastructure development and maintenance fees, etc.

## 6.11 Special Tax Regimes

In addition to general tax regime, Kyrgyz law establishes special tax regimes for specified categories of taxpayers. These regimes are:

- Simplified single tax-based tax regime;
- Mandatory patent-based tax regime;
- Voluntary patent-based tax regime;
- Tax contract-based tax regime;
- Free economic zone tax regime;
- High-tech park tax regime.

**Under simplified single tax-based tax regime**, small and medium enterprises may pay single tax instead of profit tax or sales tax on their taxable income.

Single tax is charged at the following rates: (a) for agricultural products processing, production and trade, the rate is 4% of earnings in case of cash settlement and 2% in case of non-cash settlement, and (b) for other activities, the rate is 6% of earnings in case of cash settlement and 3% in case of non-cash settlement. Where the taxpayer is engaged in several undertakings, single tax is assessed and paid separately for each undertaking at the rates established for these undertakings.

Simplified tax regime is optional for all business entities, except payers of VAT, excise tax, or patent-based tax, providers of financial and insurance services, investment funds, professional securities market participants; providers of catering services; providers of resort and spa services.

**Mandatory patent-based tax regime** applies instead of income tax, VAT on taxable supplies and sales tax only to the providers of the following services: saunas and baths, except municipal ones, billiards, currency exchange offices, discotheques, all day parking, pawnshops, hair and beauty salons, private dentistry, billboard advertising, car washing services; and export of agricultural products.

Mandatory patent-based tax rates are set forth in the Kyrgyz Tax Code.

**Voluntary patent-based tax regime** applies instead of profit tax and sales tax only to individuals who are not VAT payers and only in respect of activities determined by the Kyrgyz Government. The base rates of voluntary patent-based tax are also determined by the Kyrgyz Government.

**Tax contract-based tax regime** applies to organizations and individual entrepreneurs engaged in business. Under this tax regime, a taxpayer and a competent tax authority execute a contract setting forth fixed amounts of profit tax, sales tax and VAT expected to be paid by the taxpayer in the next calendar year.

Tax contract-based tax regime does not apply to payers of mandatory patent-based tax, providers of lending, financial, and insurance services, investment and pension funds, professional securities market participants, delinquent tax debtors, payers of mining tax, payers of excise tax, entities engaged in business for less than 3 years, except providers of catering services, providers of resort and spa services, real estate developers and the same providers operating less than 3 months.

**Free economic zones tax regime** applies only to residents of free economic zones of the Kyrgyz Republic engaged in the production and sale of goods (works, services) except excisable goods, in free economic zones. Residents of free economic zones may be only organizations registered with the General Directorate of free economic zones. Residents of free economic zones are exempt from all taxes except income tax and other taxes withheld and paid at source in respect of activities carried out by them in free economic zones. For the above tax benefits residents of free economic zones pay a fee of up to 2% of earnings to the General Directorate of free economic zones. With respect to activities carried out in the rest of the Kyrgyz Republic and abroad, residents of free economic zones are subject to general tax regime.

**High-tech park tax regime** applies only to residents of high-tech parks engaged in business or international trade, provided that they comply with the requirements set forth in Kyrgyz law on high-tech park. Residents of high-tech parks are exempt from profit tax, VAT and sales tax for the period determined in accordance with Kyrgyz law on high-tech park, while employees of residents of high-tech park pay income tax at a reduced rate of 5%. The funding for the directorate of high-tech park comes from deductions from proceeds of its residents at the rate of 1%.

## 6.12 Double Taxation Treaties

To avoid double taxation and prevent income tax and capital tax dodging, the Kyrgyz Republic has signed a number of bilateral treaties with a number of countries such as<sup>64</sup>:

- The Republic of Kazakhstan;
- The Republic of Belarus;
- The Republic of Ukraine;
- The Republic of Tajikistan;
- The Republic of Uzbekistan;
- The Russian Federation;
- The People's Republic of Mongolia;
- The Republic of India;
- Canada;
- The Republic of Poland;
- Malaysia;
- The Republic of Turkey;
- The Swiss Confederation;
- The Islamic Republic of Iran;
- The People's Republic of China;
- The Republic of Austria;
- The Republic of Finland;
- The Republic of Moldova;
- The Federal Republic of Germany;
- The Republic of Lithuania;
- The Republic of Latvia;
- The Republic of Korea;
- The United Arab Emirates.

The Government of the Kyrgyz Republic has signed the agreement with the Republic of Lithuania (not ratified) and approved drafts of similar treaties with the Republic of Georgia, the Republic of Armenia, the Kingdom of Netherlands, and the Czech Republic. For the time being, the drafts of the treaties received from the Republic of Azerbaijan and the Republic of France are under review, the negotiations with the Grand Duchy of Luxembourg and the Republic of Korea are underway, and the negotiations with the Kingdom of Spain and the Republic of South Africa are planned.

64 Information taken from the website of the State Tax Service of the Kyrgyz Republic as of June 21, 2016:  
<http://www.sti.gov.kg>

## 7. ACCOUNTING AND AUDIT

### Financial Reporting

In the Kyrgyz Republic, International Financial Reporting Standards developed by the International Accounting Standards Board (London) are applied as uniform basis rules for accounting and financial reporting. Small business enterprises may use simplified accounting and financial reporting rules established by the Kyrgyz Government.

Financial institutions operating in accordance with the principles of Islamic banking and finance use Islamic financial accounting standards adopted in accordance with Kyrgyz law.

### Audit

In the Kyrgyz Republic, International Standards of Audit issued by International Federation of Accountants through the International Auditing and Assurance Standards Board (New York City USA) are applied as auditing standards. Islamic financial institutions use the auditing standards for Islamic financial institutions developed by the Accounting and Auditing Organization for Islamic Financial Institutions, established and based in Manama, Bahrain.

Under Kyrgyz law, external audit is mandatory for banks and other organizations licensed by the National Bank of the Kyrgyz Republic, insurance organizations, public companies making initial public offerings of securities, investment funds, private pension funds, and such other persons as may be specifically set forth in Kyrgyz law. For other persons, audit is optional.

There are more than 100 licensed audit firms operating in the Kyrgyz Republic.<sup>65</sup>

<sup>65</sup> Information is taken from the website of the State Service for regulation and supervision of financial market of the Kyrgyz Republic as of September 1, 2015: [http://www.fsa.kg/?page\\_id=1960](http://www.fsa.kg/?page_id=1960)

## 8. CURRENCY EXCHANGE CONTROL

### Transactions in Foreign Currency

The legislation of the Kyrgyz Republic<sup>66</sup> provides that a financial liability must be expressed and settled in the national currency. The use of foreign currency and payment documents in foreign currency for settling financial obligations within the territory of the Kyrgyz Republic is allowed in cases and subject to procedures established by legislation. A monetary obligation may provide that it must be paid in a local currency equivalent of certain amount in foreign currency. In such case, the amount payable in a local currency is calculated at the official exchange rate of the respective currency on the day of payment, unless other rate or date is set by the law or agreement of the parties. Under the legislation of the Kyrgyz Republic, local resident may take loans and credits in any currency, as well as buy and sell foreign currency without restriction or unreasonable delay at authorized banks or currency exchange offices.

On the 8<sup>th</sup> of May 1992, the Kyrgyz Republic joined the International Monetary Fund (IMF), and in March 1995 assumed obligations under Clause VIII of the IMF Agreement, under which the Kyrgyz Republic has to refrain from imposing restrictions upon currency rate in payments and transfers on current international transactions, as well as from discriminating currency regimes or multiple currency rate practices without the consent of the IMF.

Therefore, currency exchange control is virtually absent in the Kyrgyz Republic, as there are no restrictions upon:

- Transfer of foreign currency across borders;
- Currency import and export are not restricted if declared at customs points;
- National and foreign currency exchange transactions;
- Purchase and sale of foreign currency by residents and non-residents at duly licensed banks and exchange offices;
- One-time cash transactions of exchanging national and foreign currency;
- Current payments, operating revenues and cross-border transfer of capital.

Under Kyrgyz legislation<sup>67</sup>, the transfer of currency, valuables other than currency, and the recording of necessary data in the customs declaration (lists), are performed in accordance with Kyrgyz customs legislation.

When receiving credits or loans, opening accounts or deposits outside the Kyrgyz Republic, Kyrgyz residents must register them with the National Bank of the Kyrgyz Republic and upon its request provide information on the respective accounts or deposits and other information related to transactions in foreign currency.

<sup>66</sup> Article 307 of the Civil Code of the Kyrgyz Republic dated May 8, 1996 (with the latest amendments as of July 23, 2016 No. 134).

<sup>67</sup> The Law of the Kyrgyz Republic "On Foreign Currency Transactions" dated July 5, 1995 (with the latest amendments as of April 26, 2013 No. 60).

## 9. BANKING SYSTEM

### State Regulation

The banking system of the Kyrgyz Republic consists of the National Bank of the Kyrgyz Republic and commercial banks. Banking activities are regulated by the Law of the Kyrgyz Republic “On the National Bank” and the Law of the Kyrgyz Republic “On Banks and Banking”.

The National Bank is a central bank of the Kyrgyz Republic owned by the Kyrgyz Republic. Powers and functions of the National Bank include:

- Determination and implementation of the monetary policy in the Kyrgyz Republic;
- Issuance of licenses for all types of banking operations;
- Exercise of currency regulation, including issuance of guidelines for foreign currency transactions, as well as purchase, sale and exchange of foreign currency in accordance with Kyrgyz law;
- Exercise of other functions and powers in accordance with Kyrgyz law.

### Establishment and Licensing

A bank can be established and operate only as a joint-stock company (whether closed or open) and the amount of its charter capital must be not less than KGS 600 million (or approximately USD 9 million ). The banks established before July 1, 2016 must have a minimum charter capital of KGS 400 million, and those established after July 1, 2017 must have a minimum charter capital of KGS 600 million.

Banking operations subject to licensing include: deposit-taking operations; investing own or borrowed funds; opening and maintaining accounts of individuals and legal entities; independently establishing correspondent relations; carrying out settlements upon the request of customers and correspondent banks; providing cash services to them; issuing, cashing, accepting, keeping, and confirming payment instruments (cheques, letters of credit, promissory notes, and other instruments), including credit and debit cards; purchasing and selling debt (factoring); promissory note and bill of exchange forfeiting; issuing debt securities (deposit certificates, bonds, promissory notes); performing financial leasing transactions; issuing bank guarantees; providing paid services using electronic money in the form of prepaid cards.

The right to issue respective licenses rests with the National Bank of the Kyrgyz Republic.

Foreign banks can set up their representative offices, subsidiaries and joint ventures in the Kyrgyz Republic with the consent of the National Bank of the Kyrgyz Republic. Branches of foreign banks must obtain the license from the National Bank of the Kyrgyz Republic.

### Standard Requirements for Banks

The National Bank establishes standard requirements including minimum capital and reserve funds requirements. The National Bank also establishes mandatory requirements with respect to commercial bank officers (chair and members of the Board of Directors, chair and deputy chairs and members of the Management Committee, chair of the Audit Committee, head of the Crediting Department, chief accountant and internal auditor) who are appointed with the consent of the National Bank.

All the requirements for domestic banks, including minimum authorized capital and minimum reserve funds and other requirements, also apply to banks with foreign ownership.



## Liquidation and Re-Organization

A bank may be liquidated or re-organized as a result of revocation of its banking license by the National Bank, by a respective court decision, or by a voluntary decision of the bank.

## Bank Secrecy

Disclosure of information representing a bank secret is regulated by the Law of the Kyrgyz Republic “On Bank Secrecy” and the Law of the Kyrgyz Republic “On Banks and Banking”.

The following information is considered to be a bank secret: information on customers’ accounts and deposits; information on transactions/operations performed upon customer’s request or to the customer’s benefit; information about a customer which the bank may have obtained in the course of its relations with the customer.

In addition to the National Bank, banks may provide information to: investigation agencies (with authorization of procurator); courts (on the basis of a court ruling); and representatives of an individual (on the basis of a notarized power of attorney).

Many commercial banks operating in the Kyrgyz Republic, including other financial institutions provide credit information to Ishenim Credit Information Bureau of the Association of Financial Institutions for the creation and maintenance of the credit registry.

## Anti-Money Laundering and Counter-Terrorism Financing Measures

Under Kyrgyz law, capital control is imposed on cash transactions over 1 million KGS (or around USD 16,000 as of June 2016 ) referring to any of the following:

- 1) Internal or external transactions and operations performed by banks and other financial institutions, except transactions and operations listed by the competent public authority in coordination with the National Bank of the Kyrgyz Republic ;
- 2) Transactions or operations in which at least one party is registered, domiciled or located or maintains bank account in the jurisdiction where no disclosure or submission of information on financial operation is required.  
The list of such jurisdictions is determined by the competent public authority in coordination with the National Bank of the Kyrgyz Republic on the basis of the lists approved by the international organizations involved in anti-money laundering and is subject to publication.
- 3) Other transactions and operations in excess of the established limit such as:
  - The purchase or sale of foreign currency in cash;
  - The purchase of securities by an individual for cash;
  - The exchange of banknotes of different denomination;
  - The contribution by an individual of cash to the authorized capital of an organization;
  - The flow of funds of charities, public organizations and institutions, and foundations;
- 4) Other movable and immovable property transactions:
  - The pawning of securities, precious metals, jewels, or other valuables;
  - The payment of insurance contributions by an individual or receipt of a premium of life insurance, another type of contribution-based insurance, and pension benefits;
  - The transactions involving immovable property in the amount equal to or exceeding 4.5 million KGS;
  - Movable property transactions;
  - Receiving or giving property under a financial lease agreement;

- The payment of lottery, pari-mutuel, or other gamble-related gains.
- 5) Money transfers:
- Performed by organizations other than financial and lending institutions, upon request of a customer;
  - Performed through systems not requiring account opening for transfer or receipt of money.

Kyrgyz legislation sets forth mandatory control over transactions and operations, if at least one of their parties is included in the List of persons who served sentences for committing terrorist or extremist crime as determined by the Government of the Kyrgyz Republic.

This also applies to transactions and operations that raise suspicion, i.e., have no clear economic or evident legal purpose and are not typical of a given individual or legal entity.

### **Disclosure of Information**

Entities required to disclose information on the above transactions include banks, financial institutions, credit unions, insurance/reinsurance companies, mortgage companies, pension assets management companies, exchange offices, pawnshops and buying offices, professional participants of the securities market, commodity exchanges, insurance companies, leasing companies, operators of payment systems, lottery organizers, organizations carrying out registration of rights to immovable and/or movable property, organizations handling accounts, realtors and dealers in precious metals and/or stones, trustees, postal and telegraph services, and others.

All information on transactions and operations that raise suspicion shall be provided by the respective entities within 1 business day following the transaction/operation to the financial intelligence service which, in its turn, may share this information with investigation agencies and courts. Legislation precludes liability of the entities for disclosing such information while providing their services to customers. Moreover, the entities are prohibited from disclosing the fact that information was provided to the Financial Intelligence Service of the Kyrgyz Republic.

### **Deposit Insurance**

Under the Law of the Kyrgyz Republic “On Bank Depositor Protection”, there has been established a Deposit Insurance Fund which is administered by the Deposit Insurance Agency.

When an insurance contingency occurs, each depositor shall be paid a compensation of not more than KGS 100 thousand (about USD 1,500 as of June 2016) in total, including interests on deposits.

An insurance contingency means a bank’s failure to repay a deposit due to its liquidation or bankruptcy. The Law also provides for a category of deposits not subject to protection, for example, deposits of bank insiders and affiliates, deposits made under the power of attorney issued by a legal entity, deposits associated with the financing of terrorism and proceeds of crime (money-laundering), etc.

### **Banking Services**

In the Kyrgyz Republic, pursuant to the data of the National Bank as of May 31, 2016 there are 25 registered commercial banks, including banks with foreign or government participation, and one foreign bank branch. Also, there are 2 foreign bank representative offices.

Banks in Kyrgyzstan operate with credit cards such as MasterCard, Diners Club, Visa, traveller's cheques American Express, Thomas Cook, CitiCorp, (CUP) ChinaUnion Pay<sup>68</sup> and with registered cheques.

Banks take demand deposits and time deposits (for a term of 0 to 12 months) from legal entities and individuals with an interest rate ranging between 0% and 18%.

Banks may offer loans for 5-1- years at 5% or more in the local or foreign currency. No mortgage loans in the foreign currency may be offered to individuals.

According to the World Bank's Report, 'Doing Business', 2016, the Kyrgyz Republic ranks 67th out of 189 countries in the world in terms of ease of doing business and 6th in the world in terms of ease of access to loans.<sup>69</sup>

### **Principles of Islamic Finance in Kyrgyzstan**

One of the maxims of Islam is "the prohibition to participate in any interest-bearing transactions". Therefore, banks that follow the Islamic principles issue interest-free loans for business development. Under this scheme, a bank obtains a share in the financed or newly established company and participates both in gains and losses of the financed business project.

In May 2006, the Kyrgyz Republic, the Islamic Development Bank, and EcoIslamicBank Closed Joint Stock Company signed a Memorandum of Understanding related to the introduction of the principles of Islamic banking and finance in the Kyrgyz Republic. Parties to the Memorandum agreed to a phased introduction of the Islamic principles in the Kyrgyz Republic as an alternative to the existing traditional principles of finance.

To promote the implementation of the second phase of the pilot project set forth in the above Memorandum, Eco Islamic Bank Closed Joint Stock Company continues its efforts to finalize its transformation into an Islamic bank.

The bill proposing amendments to the Laws of the Kyrgyz Republic "On the National Bank of the Kyrgyz Republic" and "On Banks and Banking in the Kyrgyz Republic" came into effect on July 2, 2009 with an aim to ensure equal conditions for all participants of the banking sector and to promote the Islamic banking in the Kyrgyz Republic.

MFC Companion Financial Group CJSC began practicing Islamic finance in Osh, Kyrgyz Republic in 2013.

Kyrgyzstan Leasing Company engaging in Islamic finance leasing started operations in 2015.

### **Operations in Offshore Zones**

Under Kyrgyz legislation, Kyrgyz banks are prohibited from establishing direct correspondent relations with banks, their affiliates and envelope banks incorporated in the following offshore zones:

- Anguilla (United Kingdom);
- Antigua and Barbuda;
- Aruba;
- Barbados;

68 [http://www.knews.kg/pr\\_articles/35723\\_tseremoniya\\_zapuska\\_ekvayringa\\_kart\\_Union\\_Pay\\_Int\\_/](http://www.knews.kg/pr_articles/35723_tseremoniya_zapuska_ekvayringa_kart_Union_Pay_Int_/)

69 <http://www.doingbusiness.org/rankings>

- Belize;
- The Bermuda Islands (United Kingdom);
- The British Virgin Islands (United Kingdom);
- Gibraltar (United Kingdom);
- Bahrain;
- Grenada;
- The Dominican Republic;
- Andorra;
- Lichtenstein;
- Lebanon;
- Macao (China);
- the Maldives;
- Monaco;
- Montserrat (United Kingdom);
- Western Samoa;
- The Antilles Islands (Netherlands);
- Niue (New Zealand);
- The Labuan Island (Malaysia)
- The Cayman Islands;
- The Cook Islands (New Zealand);
- The Turks and Caicos Islands (United Kingdom);
- Vanuatu;
- Costa Rica;
- Liberia;
- Mauritius;
- Malta;
- The Marshall Islands;
- Nauru;
- Palau (Belau);
- Panama;
- The Seychelles Islands;
- San Marino;
- Saint Vincent and the Grenadines;
- Saint Lucia;
- The Bahamas Islands;
- Saint Kitts and Nevis;
- Montenegro.

Companies incorporated in the above states and territories may not act as founders or shareholders of resident banks of the Kyrgyz Republic including microfinance companies.

## 10. EMPLOYMENT RELATIONS

### Labour Law

The principal legal act regulating employment relations is the Labour Code of the Kyrgyz Republic.

Treaties and other international law instruments ratified by the Kyrgyz Republic constitute an integral part of the current Kyrgyz law and are binding in their entirety and directly applicable in the Kyrgyz Republic. It must be noted that the rules of the treaties ratified by the Kyrgyz Republic which are more favourable to employees shall prevail over the rules set forth in the laws and other regulatory acts of the Kyrgyz Republic, contracts or collective agreements.

### Employment Contract

**An employment contract** is an agreement between an employee and an employer whereby the employer undertakes to provide the employee with the work agreed on, to ensure proper working conditions as required by Kyrgyz law, collective agreement, contracts, internal regulations containing labour law provisions, to timely and fully pay salary to the employee, and the employee undertakes to personally perform his/her job functions in the relevant area of practice or official capacity and to observe the internal working regulations.

An employment contract is executed in writing, in two counterparts signed by both parties. The hire of an employee is completed within three days by the order (instruction or resolution) of the employer based on the employment contract.

An improperly executed employment contract may nevertheless be deemed concluded, if an employee has actually set to work with the consent and on the instruction of the employer or its representative. However, permitting the employee to work does not relieve the employer of the obligation to execute a written employment contract with such employee.

Employment contracts are executed for an indefinite period or definite period (of not more than 5 years for fixed-term employment contracts) or such other period as may be set forth in Kyrgyz law.

The fixed-term employment contract is entered into if employment relationship cannot be established for an indefinite period given the nature and conditions of the work to be performed, unless otherwise provided by Kyrgyz law.

Unless the term of the employment contract is specified therein in writing, such contract is deemed executed for an indefinite period. If neither party demands the termination of the fixed-term employment contract due to its expiration, and the employee continues to work after its expiration the employment contract is deemed executed for an indefinite period.

Employers are prohibited from executing fixed-term employment contracts without good cause to avoid offering employee rights and benefits guaranteed under Kyrgyz law.

### Probationary Period

When executing an employment contract, the parties may agree to a probationary period to determine if an employee is suitable for a particular job. The probationary period must be stipulated in the employment contract and may not exceed three months for general staff and six months for executive staff including senior managers and their deputies, senior accountants and their deputies, chiefs of branches,

representative offices and other standalone subdivisions, unless otherwise provided by Kyrgyz law. The probationary period may not be extended even with the employee's consent.

If the employee's performance on probation is not satisfactory, the employer may terminate the employment contract by giving at least 3 days' prior written notice to the employee stating the reasons for considering the employee to have failed to satisfactorily complete the probationary period.

If during the probationary period the employee determines that this job is not suitable for them, the employee may terminate the employment contract by giving 3 days' prior written notice to the employer without stating the reasons for such termination.

If before expiration of the probationary period the employer made no decision to terminate employment, the employee is considered to have satisfactorily completed the probationary period and the employment contract can be subsequently terminated on the general grounds.

The probationary period does not include temporary disability and other periods when an employee is actually absent from work (e.g. blood donors are permitted one day off).

### **Job Transfer**

A transfer to a different permanent position with the same employer at the employer's initiative, i.e. a change in employment functions or material terms of the employment contract, as well as a transfer to a permanent position with another employer or to another location together with the employer is allowed only with the written consent of the employee. The transfer of an employee to a job contra-indicated for that employee due to their health condition is prohibited.

### **Termination of Employment Contract**

Kyrgyz law provides a conclusive list of the grounds for terminating an employment contract. The termination of the employment contract is made by a respective order (instruction, resolution) of the employer.

### **Working Time and Rest Time**

Working time is the period of time during which an employee performs their employment duties in accordance with the internal working regulations or work schedule or terms of the employment contract.

The legislation limits the working hours per day, per week, per month.

Working time may vary as follows:

- Normal working hours;
- Short-time working;
- Part-time working.

Normal working hours may not exceed 40 hours per week, with the exceptions specified in the Kyrgyz Labour Code. Fewer hours per week may be specified in employment contracts by agreement of the parties.

Short-time working means working fewer hours than normal ones. It is limited to the following maximum working hours for the following categories of employees:

- maximum 24 hours per week for employees aged 14 to 16; maximum 36 hours per week for employees aged 16 to 18;
- maximum 36 hours per week for workers engaged in physically demanding labour or exposed to harmful or dangerous working conditions;
- maximum 36 hours per week for employees with disabilities of groups I and II who are paid at the same rate as the employees working normal hours.

Employees may work on a part-time basis by agreement of the parties and are paid in proportion to hours worked. The Kyrgyz Labour Code specifies a conclusive list of persons who are entitled to fewer hours per week or per day at their request.

A five-day working week and two-day weekend or a six-day working week and one-day weekend is determined by the internal working regulations or watch schedules. In case of a six-day working week the maximum working hours per day or watch may not exceed: 7 hours per 40-hour working week, 6 hours per 36-hour working week, and 4 hours per 24-hour working week. The day before a holiday and at night, the working time is 1 hour less.

Rest time is time when employees take a break from work and may do whatever they choose.

Types of rest time are:

- breaks during the working day or shift;
- daily rest or rest between shifts;
- weekly rest (days off);
- non-working public holidays;
- leaves of absence.

During their working day or shift, employees have the right to one rest and meal break of minimum 30 minutes and maximum 1 hour not counted as time worked. The time and duration of breaks are stipulated in staff regulations or agreement between the employer and the employee. Some employees have the right to specific rest breaks during work time if so required by the technology, organization or conditions of work. The types of such work and duration of such breaks are stipulated in staff regulations.

Employees have the right to uninterrupted weekly rest (days off). Days off are rest days during the working week. Employees who work a 5-day week are entitled to 2 days off per week; those who work a 6-day week are entitled to 1 day off per week.

Non-working public holidays in the Kyrgyz Republic are:

- January 1 – New Year's Day;
- January 7 – Christmas Day (Orthodox Christmas);
- February 23 – Defender of the Fatherland's Day;
- March 8 – International Women's Day;
- March 21 – Nooruz National Holiday;
- May 1 – Labor Day;
- May 5 – Kyrgyz Constitution Day;
- May 9 – Victory Day;
- August 31 – Independence Day; and
- November 7 – Great October Socialist Revolution Day.

Islamic holidays of Orozo-Ait and Kurman-Ait (celebrated according to the lunar calendar) are non-working public holidays.

When a non-working public holiday falls on a day off, it is extended to the next working day.

Employees are entitled to 1 annual paid leave of 28 calendar days. The annual paid leave longer than 28 days (extended annual leave) is granted to employees in accordance with the Labor Code and other laws of the Kyrgyz Republic.

The time on leave is counted as calendar days. If non-working public holidays occur during the leave period, these days will not be included in the leave period and will not be paid. The leave record card must be kept for each employee to reflect all data about leaves taken. The leave is documented by the order (instruction, resolution) or leave memo issued by the employer or its authorized person.

Employees may be granted a leave without pay upon request for family or other valid reasons. The duration of such leave is determined by agreement between the employer and the employee. The employer must grant such leave in cases provided by the Labour Code such as birth of a child, registration of marriage, death of close relatives, etc.). While on leave without pay, employees retain the right to their jobs (positions). The Labour Code prohibits employers from directing employees to take leave without pay.

### **Compensation of Employees**

Compensation of employees refers to wages paid by employers to employees for work done in accordance with laws, other regulatory acts, collective bargaining agreements, arrangements, internal regulations and employment contracts.

Wage is monetary remuneration paid by an employer to an employee in exchange for work done depending on its complexity, quantity, quality, conditions and employee's qualification plus compensations and incentives (for example, premiums). From the legal point of view, the term "wage" is more accurate than the term "compensation of employees" because it refers to the employee's category.

Wage is paid in cash in the national currency of the Kyrgyz Republic (KGS). Employees may not pay compensation of employees with promissory notes, debt instruments, ration cards, or other similar money substitutes.

### **Minimum Amount of Compensation**

A minimum wage (minimum compensation of employees) refers to a guaranteed monthly wage paid to an unskilled employee who completed minimum hours of ordinary work in ordinary working conditions.

A minimum compensation of unskilled employees is established by law and applies throughout the territory of the Kyrgyz Republic and cannot fall below subsistence level of an individual able to work.

In the Kyrgyz Republic, a statutory minimum wage is KGS 1,060 (approximately USD 14.27 as of March 2016).

A monthly compensation of an employee who has completed minimum hours of work over the given period and performed their employment duties may not fall below the statutory minimum wage.



A minimum wage does not include surcharges and bonuses, premiums and other incentive payouts, as well as payments for working in abnormal or particular climatic conditions or areas exposed to radioactive pollution, nor does it include other compensatory and social welfare payments.

### **Due Date and Procedure for Payment of Wage**

Due dates for payment of wage are established by a collective agreement or internal regulations of an employer. Wage is paid at least once every calendar month.

At the time of payment of wages, employers must notify employees in writing of all amounts comprising the wage and payable to them for the given period of time, the amounts withheld and the grounds for withholding, and the amount receivable.

Wages may be paid to employees at place where they perform work or may be transferred to bank account specified by them as set forth in the collective agreement or employment contract.

Wages are paid to employees directly, except as otherwise provided by law or employment contract, for example, via a proxy.

If a regular payday falls on a weekend or public holiday, wage is paid on the day preceding the weekend or holiday. Vacation pay must be paid at least 3 days prior to such vacation.

In case of employers' failure to pay wages, vacation pays or other amounts payable to employees when due, such amounts will bear interest of 0.15% of the amount outstanding as of the date of actual payment per each calendar day of delay.

In case of employers' failure to pay all amounts payable to discharged employees when due will bear interest of 0.5% of the amount outstanding as of the date of actual payment per each calendar day of delay.

In 2015, to balance the interests of the employee and the employer, the Government of the Kyrgyz Republic made amendments to labor legislation whereby the maximum default interest (0.15% and 0.5%) was limited to 200% of the principal. This maximum default interest limitation applies only to the period from the date of default to the date of receipt of the claim for payment of salary, leave allowance or other overdue amounts payable to the employee. After the date of receipt of the claim, the maximum default interest limitation does not apply and the default interest accrues until the date of actual settlement.

Extra pay for dual employment/multiple jobs or replacement of temporarily absent employees is determined by agreement between the employer and the employee but may not be below 30% of the gross wage payable for extra job.

Employees working at night must receive extra pay for each hour but not less than one and one-half times the regular pay rate.

Employees working overtime must receive extra pay of at least one and one-half times the regular pay rate for the first two hours and double time pay thereafter.

Employees working on day off or non-working public holiday must receive extra pay of at least double time pay.

Employees having idle time through the fault of the employer must receive at least two-thirds of the regular pay rate. Employees having idle time through no fault of the employer and the employee must receive at least two-thirds of the regular pay rate (gross wage). Employees having idle time through their own fault receive no pay.

### **Labour Dispute Resolution**

A party of the employment contract (an employer or an employee) which inflicted damages on the other party must reimburse it for such damages as provided by Kyrgyz labour law. The amount of damages may be specified in the employment contract or other agreements executed in writing and attached thereto. In which case, damages payable by the employer to the employee under the contract may not be less and damages payable by the employee to the employer under the contract may not be more than the amount specified in the Labour Code or other laws of the Kyrgyz Republic. Termination of the employment contract after infliction of damages does not relieve the contracting party of liability.

Individual labour disputes, i.e. unresolved disagreements between the employer and the employee, are referred to labour dispute committees established within the employers (having 10 or more employees), or labour inspection authority or courts of the Kyrgyz Republic. The employee may at its own discretion choose one of these authorities to resolve a labour dispute. If there is no labour dispute committee, such dispute will be referred to the labour inspection authority or court.

Generally, the period for referring disputes to the above authorities is 3 months from the date of becoming aware of a violation of rights or 2 months from the date of receiving the notice of dismissal or the date of handing over the service book in actions for wrongful dismissal. In actions for unpaid wages, the period of limitation does not apply.

### **Employer's Liability**

An employer incurs liability for damages caused to its employees by an occupational injury or disease or other health impairment arising out of employment and occurring both on and off site or on the way to or from work in a transport vehicle provided by the employer.

### **Employment of Foreign Nationals**

Foreign nationals employed in the Kyrgyz Republic are subject to the requirements of the Labour Code, other laws and regulations of the Kyrgyz Republic containing the provisions of labour law, unless otherwise provided by Kyrgyz laws or treaties.

Employees of legal entities based in the Kyrgyz Republic and fully or partially founded or owned by foreign companies or nationals (including subsidiaries of transnational corporations) are subject to the requirements of laws and regulations of the Kyrgyz Republic containing the provisions of labour law, unless otherwise provided by Kyrgyz laws or treaties.

### **Rights of Foreign Employees**

Foreign employees have the right to use their ability to work and to choose their trade, occupation or profession freely provided that they have a proper proof of education or experience and other supporting documentation.

## Work Permit

Employers may hire and employ foreign nationals on the basis of employment permits while foreign nationals may work or do business in the Kyrgyz Republic (except nationals of the Russian Federation, Republic of Kazakhstan, Republic of Belarus, Republic of Armenia<sup>70</sup>) on the basis of employment permits and work permits. The competent authority responsible for issuing permits to employers to hire foreign employees and work permits to foreign employees is the State Migration Service under the Government of the Kyrgyz Republic.

There is a fee to apply for employment or work permits collected by the migration authority to cover the cost of issuing such permits. The cost of employment and work permits is determined by the Kyrgyz Government.

The foreign worker quotas are set and approved by the Kyrgyz Government annually 4 months before the beginning of the calendar year with due regard being given to the interests of the state and the local labour market situation. The foreign worker quotas are distributed by the State Migration Service of the Kyrgyz Republic among the employers hiring foreign nationals and stateless persons to work in the Kyrgyz Republic with due regard being given to their input in the country's economy and with preference in filling vacancies being given to Kyrgyz nationals.

<sup>70</sup> Under the Treaty on the Eurasian Economic Union dated May 29, 2014, employees working in its member states are not required to receive permits to work there.

## 11. REAL PROPERTY

### Real Property Law

Under Kyrgyz Civil Code,<sup>71</sup> real property refers to land, minerals, water, forests, perennial plantings, buildings, structures and everything firmly attached to land, i.e. objects that cannot be moved without destroying or altering them. The state registration of rights to immovable property is performed by the State Registration Service under the Government of the Kyrgyz Republic<sup>72</sup>.

Real property rights and encumbrances, as well as real property transactions are subject to mandatory state registration. The registration procedure is set forth in the Kyrgyz Law “On State Registration of Immovable Property Rights and Transactions”.<sup>73</sup> Under Kyrgyz law, state registration is mandatory for the following rights:

- Right of ownership;
- Right of business management;
- Right of operational control;
- Right of permanent (with no fixed term) use of land;
- Rights arising from mortgage, including statutory mortgage or pledge;
- Right of temporary use, lease or sublease for the term of 3 years or more;
- Easements;
- Restrictions of rights to design, construct and use an individual unit of immovable property, except restrictions imposed on immovable property by the laws and other regulatory acts of the Kyrgyz Republic;
- Rights arising from court decisions;
- Right of use of natural resource listed in Kyrgyz laws;
- Rights arising from legalization of property;
- Other rights subject to registration at present or in the future under the Civil Code and other normative legal acts of the Kyrgyz Republic.

According to the World Bank’s, ‘Report Doing Business’, 2013, the Kyrgyz Republic ranks 6th among 189 countries of the world in terms of the steps, time, and cost involved in registering property in the Kyrgyz Republic<sup>74</sup>.

The following rights and restrictions are valid regardless of their registration or non-registration, but are not secured state protection:

- Right of access to electric power lines, telephone and telegraph lines and poles , pipelines, geodesic points and other rights pertaining to a matter of public concern;
- Rights of spouses, children, and other dependents, established by Kyrgyz laws, even if these rights were not registered independently;
- Right of temporary use, lease or sublease for the term of less than 3 years;
- Right of preferential use of real property by its actual users established by Kyrgyz law;
- Rights of tax authorities established by Kyrgyz law;
- General restrictions and prohibitions (related to health care, public security and environmental protection) set forth in Kyrgyz law.

<sup>71</sup> Article 24 of the Civil Code of the Kyrgyz Republic (with the latest amendments as August 3, 2013

<sup>72</sup> Regulation on State Registration Service under the Government of the Kyrgyz Republic (with the latest amendments as of December 14, 2015) approved by the Resolution of the Government of the Kyrgyz Republic dated February 20, 2012 No. 128.

<sup>73</sup> The Law of the Kyrgyz Republic “On State Registration of Immovable Property Rights and Transactions” dated December 22, 1998 (with the latest amendments as of July 9, 2013).

<sup>74</sup> <http://www.doingbusiness.org/data/exploreeconomies/kyrgyz-republic/>

## Land Relations

The principal regulatory act governing land relations in the Kyrgyz Republic is the Land Code of the Kyrgyz Republic<sup>75</sup> according to which, the land fund in the Kyrgyz Republic comprises the following:

- Agricultural land including farmland and land occupied by on-farm roads, communications, water reservoirs, buildings and structures necessary for farming;
- Residential land (in towns, urban villages, and rural settlements);
- Industrial, transport, communications, defence and other infrastructure land;
- Specially protected areas;
- Forest land;
- Water-related land;
- Reserve land;
- State mineral reserve land;

The transformation (conversion) of land from one category into another is set forth in the Land Code of the Kyrgyz Republic, the Law of the Kyrgyz Republic “On Conversion (Transformation) of Land Plots”, and the Provisional Regulation on procedure for conversion (transformation) of land plots<sup>76</sup>.

## Receiving the Right to Land

There are two ways to receive the right to land under Kyrgyz law:

- Transfer of the right to own or use a private land by an owner or user of this land under a civil transaction;
- Transfer of the right to own or use a public or municipal land by a competent authority.

Model Regulations setting forth the terms and conditions of the fee-based transfer of the right to own or lease municipal lands were adopted on September 23, 2011 under Kyrgyz Government Resolution N 571.

The right to land may be sold by auction, tender or direct sales by the land commission established for this purpose.

The right to land may be sold by direct sales in the following cases:

- a) If there is a private building or facility, including incomplete construction, on the land plot previously provided for fixed-term (temporary) use;
- b) If the land plot was put up for auction twice but was not leased out;
- c) If the land plot adjoins (borders) with part of a private building or facility for the construction of an entrance to, improvement or extension of the said objects, provided that the said land plot cannot be formed as a standalone unit of real property and the transfer of rights over such land plot to third persons may entail violation of rights of owners of these building or facilities;
- d) If the land plot adjoins (borders) with part of a private building or facility or is close to it, and is needed for setting up and maintaining parking lots, when the transfer of rights over such land plot to third persons may entail violation of rights of owners of these buildings or facilities.

As a result of the auction or direct sales, the parties execute the land purchase and sale agreement or the land lease agreement.

<sup>75</sup> The Land Code of the Kyrgyz Republic of June 2, 1999 (with the latest amendments as of June 14, 2016).

<sup>76</sup> The Law of the Kyrgyz Republic “On conversion (transformation) of land plots” dated July 15, 2013 (with the latest amendments dated March 19, 2016) and the Regulation on procedure of conversion (transformation) of land plots dated March 19, 2014 No. 169.

The agreement must be registered with the local registration authority and does not require notarization.

The sale of municipal land is effectuated by Bishkek Mayor's Office through the Land Committee which determines, within the scope of its authority, the list of land plots offered for sale.

The preliminary purchase price of the land plot is determined by negotiation between the land committee and the purchaser. The final purchase price is determined by independent appraisers based on the land documentation provided.

### **Residential Property**

Citizens and legal entities have the right to own residential property without limitation<sup>77</sup>.

### **Receiving the Right to Residential Property**

The grounds for creation of rights and obligations in respect of the residential property are:

- 1) acts of governmental and local authorities;
- 2) contracts and other transactions stipulated by law;
- 3) judicial acts;
- 4) decisions of authorized bodies of legal entities to reorganize the same;
- 5) membership in building cooperatives;
- 6) other grounds stipulated by law.

The right to residential property arises from the moment of its state registration in the manner provided by law.

### **Recreation Area**

Under Kyrgyz law<sup>78</sup>, recreation assets (i.e. assets used in recreation, health improvement, and tourism) may be owned by governmental and local authorities or by private individuals and legal entities.

### **Restrictions on Foreign Ownership of Immovable Property**

There are no restrictions in Kyrgyz law on the right of foreign persons to acquire buildings and structures as long as they refer to non-residential assets.

Foreign persons may not own recreation, infrastructure or tourism assets, but they may use such assets for a maximum of 49 years subject to permission of the Kyrgyz Government and consent of Kyrgyz Parliament.

Also, there are a number of legal restrictions on the right of foreign persons to own land in the Kyrgyz Republic. A foreign person is a person who must meet one of the following:

- be a foreign national or stateless person;
- be a foreign legal entity, i.e. a legal entity which must meet one of the following:
  - be established and registered under the laws of a foreign state;
  - be fully owned by one or more foreign individuals or legal entities;

<sup>77</sup> The Housing Code of the Kyrgyz Republic dated as of 9<sup>th</sup> July 2013

<sup>78</sup> The Law of the Kyrgyz Republic "On Sustainable Development of Issyk-Kul Ecological and Economic System" dated 13<sup>th</sup> August, 2004 (with the latest amendments as of 19<sup>th</sup> October 2013)

- be controlled or managed by one or more foreign individuals or legal entities under a written contract, the right to sell a majority of the voting shares, the right to appoint a majority of members of its executive or supervisory body;
- be registered within the Kyrgyz Republic and have at least 20% of its charter capital owned by foreign nationals, stateless persons, or legal entities mentioned in this paragraph;
- be established by an international agreement or treaty.

The land rights of foreign persons are limited to the following:

- Foreign persons may not own or use agricultural land<sup>79</sup>;
- Foreign persons or foreign legal entities may receive residential land plots for fixed-term (temporary) use or into ownership as a result of enforcement of mortgage with subsequent disposal of land plot within two years from the moment of acquiring the ownership right in the manner provided by the pledge law of the Kyrgyz Republic;
- Foreign person may receive non-residential land plots (except land plots provided for agricultural or mining purposes) for fixed-term (temporary) use by the Government of the Kyrgyz Republic. In all other cases, non-residential land plots may be provided, transferred or transmitted to foreign persons through universal succession for fixed-term (temporary) use;
- Foreign persons may receive land plots intended for mining purposes for temporary use in the same manner as local mining right holders;
- Foreign nationals, stateless persons and foreign legal entities except repatriates may not receive land plots located within the frontier area for fixed-term (temporary) use;
- Foreign banks and specialized financial institutions which received agricultural land plots into ownership as a result of enforcement of mortgage must dispose of these land plots within two years from the moment of acquiring ownership right in the manner provided in the pledge law.
- Foreign persons who have acquired ownership of land by way of universal succession (inheritance, reorganization) must alienate such land to a Kyrgyz national or legal entity within one year from the date of acquiring such ownership.

In general, under Kyrgyz law, any immovable property which has been lawfully acquired by a person but may not belong to it by operation of law must be alienated by such person within one year from the date of acquiring, unless other period is provided by law.

The immovable property not alienated within one year will be, depending on its type and purpose, either subject to forced sale by the court decision at the request of the state authority or local community with the proceeds from its sale being transferred to the former owner, or appropriated for state or communal needs with its value determined by the court being refunded to the former owner, less the cost of sale.

Kyrgyz law does not clearly regulate the procedure for waiver of immovable property rights with simultaneous determination of an owner. The ownership right is terminated upon alienation by the owner of their property to other persons, or waiver of the ownership right by the owner, or perish or destruction of the property or loss of the ownership right to the property, or in other cases provided by law. An

<sup>79</sup> Article 7 of the Law of the Kyrgyz Republic "On Management of Agricultural Land" dated January 11, 2001 (with the latest amendments as of July 22, 2011).

individual or legal entity can waive the ownership right to their property having declared this waiver or having performed other actions expressly evidencing that they were deprived of possession, use or disposal of the property without an intention to preserve any rights to this property. However, waiver of the ownership right does not entail termination of the owner's rights and obligations with respect to the relevant property until the ownership right to this property is acquired by the other person<sup>80</sup>.

The owner voluntarily waiving their ownership right or other rights to the immovable property can apply to the authority for registration of immovable property rights in person with a written request stating their waiver of the ownership right and other rights to the immovable property. In this case, the owner's waiver of the ownership right or other rights must be recorded in the respective files<sup>81</sup>.

80 The Civil Code of the Kyrgyz Republic: Part I.

81 The Rules of state registration of immovable property rights and encumbrances (restrictions) thereon and related transaction, approved by Resolution of the Government of the Kyrgyz Republic dated February 15, 2011 No. 49 (with the latest amendments as of January 9, 2014 No. 5).



## 12. INTELLECTUAL PROPERTY

### Legal Framework for Intellectual Property Protection

The legal framework for intellectual property (IP) protection in the Kyrgyz Republic includes national legislation and international treaties to which the Kyrgyz Republic is a party.

The primary legislation regulating IP comprises the Civil Code of the Kyrgyz Republic<sup>82</sup>, the Patent Law<sup>83</sup>, the Law of the Kyrgyz Republic “On Trademarks, Service Marks and Appellations of Origin”<sup>84</sup>, Law of the Kyrgyz Republic “On Copyright and Neighbouring Rights”<sup>85</sup>, Law of the Kyrgyz Republic “On Legal Protection of Computer and Data Base Software”<sup>86</sup>, other laws and sub-laws.

The Kyrgyz Republic is a party to **international treaties on intellectual property**. The principal treaties are: the Paris Convention for the Protection of Industrial Property, the Berne Convention for the Protection of Literary and Artistic Works, the Patent Cooperation Agreement, and the Madrid Agreement Concerning the International Registration of Marks and the Protocol relating to that Agreement. In addition, since December 1998 the Kyrgyz Republic has been a member of the World Trade Organization (WTO). The requirements of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights served as the basis for the national intellectual property legislation.

### Industrial Property

Legal protection of industrial property (inventions, utility models, industrial designs, brand names, trademarks, service marks and appellations of origin) is provided on the basis of registration.

Right to an invention, utility model, and industrial design is protected by a patent that proves priority, authorship, and exclusive right of the patent holder to the given object of industrial property. Upon registration of a trademark, service mark, or appellation of origin a certificate is issued to prove the trade or service mark owner’s exclusive right to use and dispose of the mark, or owner’s right to use the registered appellation.

The public agency authorized to register these objects in the Kyrgyz Republic is the State Service of Intellectual Property and Innovation under the Government of the Kyrgyz Republic (Kyrgyzpatent).<sup>87</sup>

### Inventions, Utility Models, and Industrial Designs

**An invention** is subject to protection when it is new, has an inventive level, and is industrially applicable. An invention patent is valid for 20 years from the date of submission of respective application to Kyrgyzpatent. A patent to a pharmaceutical invention may be extended upon request of its holder, but for not more than 5 years.

**A utility model** is subject to protection if it is new and industrially applicable. A patent to a utility model is valid for 5 years from the date of respective application to Kyrgyzpatent, and may be extended upon request of the patent holder, but for no more than 3 years.

82 Civil Code of the Kyrgyz Republic dated 8 May 1996 No 15 (with the latest amendments as of July 23, 2016 No. 134);

83 Kyrgyz Patent Law dated 14 January 1998 No. 8 (with the latest amendments as of April 10, 2015, No. 76);

84 The Law of the Kyrgyz Republic “On Trademarks, Service Marks and Appellations of Origin” dated January 14, 1998 No. 7 (with the latest amendments as of February 6, 2014, No.28);

85 The Law of the Kyrgyz Republic “On Copyright and Neighbouring Rights” dated January 14, 1998 No.6 (with the latest amendments as of January 21, 2014, No.14);

86 The Law of the Kyrgyz Republic “On Legal Protection of Computer and Data Base Software” dated March 30, 1998 No.28 (with the latest amendments as of December 8, 2006, No.205);

87 Official website of Kyrgyzpatent: <http://www.kyrgyzpatent.kg>

**An industrial design** is subject to protection if it is new and original. A patent to an industrial prototype is valid for 10 years from the date of respective application to Kyrgyzpatent, and may be extended upon request of the patent holder, but for no more than 5 years.

### Trademarks, Service Marks, and Appellations of Origin

A trademark or service mark is a designation which identifies goods or services of particular individuals or legal entities from those of others. A trademark may be designated by verbal, visual, volumetric or other signs or their combination<sup>88</sup>. A person applying to Kyrgyzpatent for a trademark can be previously not using such trademark for the goods and services specified in the application. Kyrgyz law does not require the applicants to confirm the prior use or intent to use the trademark when filing an application for registration.

The goods and services are classified according to the tenth edition of the International Classification of Goods and Services approved by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks.

A registered trademark is confirmed by a certificate. The period of validity of a registered trademark is 10 years from the date of filing with possibility of renewal for another 10 years at the trademark holder's request filed within the last year of its validity.

An appellation of origin means the geographical name of a region or locality, or country, used to designate a product originating in that region, locality, or country, and the quality or characteristics of which are essentially or exclusively due to the particular geographical environment comprising inherent natural and human factors thereof. A registered appellation of origin is confirmed by a certificate. The period of validity of the certificate is 10 years and is renewable for another 10 years at the request filed before its expiration.

### Copyright

Kyrgyz law protects works of science, literature, and art (copyright), as well as phonograms, performances, broadcasts by broadcasting and cable casting organizations (neighbouring rights). Protection is provided without registration of respective works or any other formalities. Copyright is valid for the life of the author and 50 years after their death.

Copyright covers software and data bases, both released and not released, represented in objective form, regardless of their tangible medium, purpose, and value. Legal protection applies to any type of software in any language and in any form, including source code and object code.

Authors may protect their moral rights to an unpublished work and right holders may protect their exclusive proprietary rights to a work at any time during the period of copyright protection by registering them in Kyrgyzpatent's official registries which is confirmed by a certificate.

### Representation

Foreign persons or their patent attorneys handle cases related to IP protection through patent attorneys registered with Kyrgyzpatent<sup>89</sup>. As of today, there are 17 certified patent attorneys operating in

<sup>88</sup> Article 2, part 3 of the Law "On Trademarks, Service Marks and Appellations of Origin" dated January 14, 1998 No.7 (with the latest amendments as of February 6, 2014, No.28);

<sup>89</sup> Article 6 part 3 of the Law of the Kyrgyz Republic "On Trademarks, Service Marks and Appellations of Origin" of January 14, 1998 (with the latest amendments as of February 6, 2014, No.28).

Kyrgyzstan<sup>90</sup>. Residents of the countries which signed a bilateral agreement with the Kyrgyz Republic establishing mutual simplified procedures for IP rights can handle the cases related to obtaining a patent, registering a trademark and other activities independently or through their national patent attorneys unregistered in the Kyrgyz Republic. Under such agreements, individuals and legal entities of a foreign state enjoy in the territory of the Kyrgyz Republic the same rights and preferences as are currently provided to Kyrgyz individuals and legal entities.

The Kyrgyz Republic has signed bilateral agreements on cooperation in the field of intellectual property<sup>91</sup> with the following countries:

- the Russian Federation (the Agreement between the Government of the Kyrgyz Republic and the Government of the Russian Federation on cooperation in the field of protection of industrial property effective from October 13, 1995 and the Agreement on mutual protection of intellectual property results used and received as a result of bilateral military technical cooperation effective from February 2, 2006);
- the Republic of Uzbekistan (the Agreement between the Government of the Kyrgyz Republic and the Government of the Republic of Uzbekistan on cooperation in the field of protection of industrial property effective from December 24, 1996);
- the Republic of Kazakhstan (the Agreement between the Government of the Kyrgyz Republic and the Government of the Republic of Kazakhstan on cooperation in the field of protection of industrial property effective from April 8, 1997);
- the Azerbaijan Republic (the Agreement between the Government of the Kyrgyz Republic and the Government of the Azerbaijan Republic on cooperation in the field of protection of industrial property effective from August 27, 1997);
- the Republic of Armenia (the Agreement between the Government of the Kyrgyz Republic and the Government of the Republic of Armenia on cooperation in the field of protection of industrial property effective from June 18, 1998);
- the Turkish Republic (the Agreement between the Government of the Kyrgyz Republic and the Government of the Turkish Republic on cooperation in the field of protection of intellectual property effective from November 13, 1998);
- the People's Republic of China (the Agreement between the Government of the Kyrgyz Republic and the Government of the People's Republic of China on cooperation in the field of protection of intellectual property effective from November 8, 2006);
- the Republic of Belarus (the Agreement between the Government of the Kyrgyz Republic and the Government of the Republic of Belarus on cooperation in the field of protection of industrial property effective from September 22, 2007).

<sup>90</sup> Based on information found on the official website of Kyrgyzpatent: <http://patent.kg/index.php/ru/attorneys.html>

<sup>91</sup> Based on information found on the official website of Kyrgyzpatent: <http://patent.kg/index.php/ru/legislation/int-agreements/int-govement.html>

### Protection of Intellectual Property Rights

Kyrgyz customs authorities ensure protection of copyright and neighboring rights, trademarks and appellations of origin. For this purpose, at the request of right holders or their representatives, IP rights are entered in the register of protected intellectual property rights for up to two years upon payment of an appropriate fee. When the customs clearance of the goods bearing intellectual property reveals any signs of counterfeit, these goods shall be kept in temporary storage, and the release of such goods shall be suspended for 10 days with the possibility of renewal for the same period. During this period, the right holder or his representative shall submit to the customs authorities the documents confirming the start of litigation to restore legal rights and interests in respect of suspended goods.

A holder of the IP right may apply to the state antimonopoly authority for the suppression of unfair competition. A decision (order) of this authority shall be binding throughout the territory of the Kyrgyz Republic in full and within specified time. Those who disagree with the decision (order) of state antimonopoly authority may appeal it to the court.<sup>92</sup>

Kyrgyz law establishes civil, administrative, and criminal liability for violation of intellectual property rights.

**The Code of Administrative Liability** imposes administrative fines as punishment for intellectual property violations. The court is the competent authority which reviews administrative violations in this area.

**Criminal liability** for violation of intellectual property rights is imposed by the Criminal Code of the Kyrgyz Republic. Thus, the violation of intellectual property rights is punishable by sanctions up to imprisonment.

According to the general rule, intellectual property rights are protected by judicial procedure. These disputes fall within the jurisdiction of state courts.

<sup>92</sup> Article 20 of the KR Law on Competition, dated July 22, 2011 No.116 (with the latest amendments as of July 15, 2016, No.118).

## 13. ANTI-MONOPOLY REGULATION

### Legislation

Anti-monopoly legislation of the Kyrgyz Republic consists of the Law of the Kyrgyz Republic, “On Competition”, Law of the Kyrgyz Republic “On Natural and Permitted Monopolies”, Law of the Kyrgyz Republic “On Advertising”, and other laws and regulations.

The anti-monopoly authority and line public authorities within the scope of their respective powers regulate and supervise natural and permitted monopolies. The public authority in charge of implementation of a general state policy on protection and development of competition, state regulation and supervision of natural and permitted monopolies, prevention, restriction and restraint of monopoly activities and bad faith competition, and regulation of fuel and energy sector of the Kyrgyz Republic is the State Agency for Anti-Monopoly Regulation under the Government of the Kyrgyz Republic.

### Unfair Competition

Unfair competition is any action of a business entity, which is aimed at obtaining an advantage against principles of good faith, reasonability and fairness, and may cause or has caused losses to competing business entities or damage to their reputation.

The State Agency for Anti-Monopoly Regulation under the Government of the Kyrgyz Republic pursues a policy aimed at the prevention of unfair competition at the market by controlling the market participants. The functions of the state anti-monopoly authority are as follows:

- Assessment of the competitive environment in the respective markets of goods and services (works);
- Protection of rights of business entities and individuals against monopolistic abuses, unfair competition, and acts and actions (omissions) of state government and local self-government bodies directed at limiting competition;
- Issuance of opinions on bills pertaining to protection and development of competitive environment;
- Approval of prices (tariffs) for services (works);
- Review of complaints and claims of individuals and legal entities of any type of ownership asserting non-compliance with antimonopoly, consumer protection and unfair advertising laws; and
- others.

#### **The following actions are prohibited as unfair competition practices:**

- Unauthorized copying of the business entity’s goods and form of packaging and exterior design, except for the goods whose appearance is conditioned by their technical function;
- Direct reproduction of the other business entity’s products by violating its patent rights;
- Illegal use of another person’s trademark, service mark, appellation of origin, business name, capable of creating confusion with other business entity;
- Distribution of false or distorted information on business profile and financial condition of the other business entity, capable of causing damage or harming its business reputation;
- Manufacture, sale, or other entry of the other business entity’s products in the market by violating its intellectual property rights and similar rights of participants of civil turnover of goods, works and services (illegal use);
- Disclosure in the distorted way of the data on scientific and technical and production abilities of the competitor;

- Intentional violation, disruption, and termination by illegal means of the competitor's business relations;
- Bringing pressure by illegal means on the competitor's employees with an aim of inducing them to neglect of duties;
- Illegal receipt, use and disclosure of data on scientific-technical, production, or commercial activities of a business entity, including its trade secret;
- Bringing pressure by illegal means on the making and carrying out of business decisions by the competitor for the purposes of getting unfounded predominance over it;
- Unfounded appeals (addresses) to other market participants encouraging to terminate business relations of the competitor or prevent them from being established;
- Dissemination of any data capable of misleading consumers about the origin, method of manufacture, usability, or quality and other features of merchandise of the business entity, identity of the entrepreneur or characteristics of their business activity;
- Marking a merchandise by an improper distinguishing sign for the purposes of misleading consumers regarding the consumption and other important qualities of the merchandise;
- Concealing the fact that the merchandise is inconsistent with its purpose or requirements set for it;
- Intentional sale of particular products on relevant markets at prices lower than those offered in the competitive environment or below cost in order to limit competition;
- Incorrect comparison between the products made or offered by one business entity and those made or offered by another business entity;
- Unfair competition involving acquisition and use of an exclusive right to the means of individualisation of a company, goods, works or services.

**Business entities which have a dominant position in the market are prohibited from taking the following actions which may limit competition and/or infringe upon interests of other business entities or citizens:**

- Impeding access to the market for other business entities;
- Withdrawal of merchandise from circulation with the purpose of or resulting in the creation and/or supporting its deficit at the market or with the purpose of raising prices;
- Imposing contractual terms on a counteragent which are disadvantageous for it or are irrelevant to the subject of the agreement (unfounded demands to transfer funds, other property, property rights, workforce of the counteragent, etc.)
- Inclusion in the contract of discriminatory or privileged terms which put the counterpart in unequal position compared to the position of other business entities;
- Forcing the counteragent (consumer) to enter into an agreement only with certain manufacturer or purchaser;
- Consenting to enter into an agreement only on condition of introducing into it the provisions on merchandise in which the counterpart (or consumer) is not interested;
- Economically or technologically unfounded reduction or termination of manufacture of merchandise, if there is demand for it or supply orders for it are placed, if it can be profitably manufactured, and if such agreement or termination of manufacture of merchandise is not directly provided by Kyrgyz law or judicial acts;
- Unfounded refusal to perform the conditions of the agreement not attributable to force majeure events;
- Economically or technically unfounded refusal or evasion from entering into the agreement with certain buyers (customers) if there is a possibility of manufacture or supply of the respective merchandise and if such refusal or evasion is not directly provided by Kyrgyz law or judicial acts;
- Creation of discriminatory or exceptional conditions;

- Economically, technologically or otherwise unfounded establishment of various prices (tariffs) for one and the same product , unless otherwise provided by Kyrgyz law;
- Setting of unreasonably high or unreasonably low prices for financial services.

### **Anti-competitive agreements of business entities limiting competition**

**The following shall be prohibited as anti-competitive concerted actions of competing business entities:**

- Establishing (maintaining) prices (tariffs), discounts, allowances (surcharges), margins;
- Increasing, decreasing or maintaining prices on the same level in the market;
- Division of the market by territory, scope of sales or procurements, assortment of goods being sold, types of provided services or range of sellers or buyers (customers);
- Limiting market entry or exit for other business entities as sellers of certain merchandise or their buyers (customers);
- Coordinating scopes of production for the purposes of artificial change of the scope of offers;
- Unfounded refusal from contracting with certain sellers or buyers (customers);
- Establishing price discrimination;
- Unfounded decrease or termination of supply of goods for invalid reasons;
- Establishing standard terms and conditions of contracts which put consumers into a disadvantageous position or limit the freedom of choice of goods and business entities manufacturing these goods or have provisions irrelevant to the subject of the contract.

**The following shall be prohibited as anti-competitive concerted actions of non-competing business entities:**

- Imposing contractual terms which are disadvantageous for the counteragent;
- Imposing exceptions which require purchasing certain goods only from the given seller, but not its competitor;
- Limiting territory or range of buyers;
- Imposing price limitations on resale of goods acquired by the buyer;
- Prohibiting sale of goods manufactured by the competitors.

**In the following exceptional cases, anti-competitive concerted actions shall be recognized by the antimonopoly authority as legal:**

- If a business entity proves that positive effects outweigh negative effects of the agreement (concerted actions),
- If they do or may result in (a) the better manufacture or sale of goods, promotion of technical or economic progress, or increased competitiveness of goods in the world market, (b) the creation of advantages (benefits) for the buyers commensurate with those acquired by business entities as a result of actions (omissions), agreements or concerted actions or transactions.

### **Liability**

Persons guilty of violating antimonopoly law shall be held liable in accordance with Kyrgyz law. The imposition of liability shall not exempt the culprits from the obligation to execute the decision of the antimonopoly authority.



### **Powers of the Anti-Monopoly Authority**

The anti-monopoly authority and its local offices shall within the scope of their powers exercise state supervision of compliance with antimonopoly legislation of the Kyrgyz Republic, in particular:

- over development and protection of competition to ensure effective functioning of markets of goods, works and services (de-monopolization of monopolistic sectors of economy, assessment of competitive environment, development of proposals on removal of barriers to competition, approval of fees for permit documents of executive bodies, review of petitions/notices of business entities on merger, reorganization, liquidation, acquisition of shares (interests) in the charter capital of commercial organizations, making decision on forcible division of business entities occupying dominant position in the market and engaged in monopolistic activity, etc.);
- over effective state control to ensure compliance with Kyrgyz law on antimonopoly and pricing regulation (balancing the interests of consumers and natural and permitted monopoly entities, formation and maintenance of the public registry of natural and permitted monopoly entities, establishment of maximum allowed level of domination of business entities, etc.);
- over protection of the legal rights of consumers against monopoly and unfair competition (maintenance of the database of free and paid services, approval of prices (tariffs) of services (works) provided by state government and local self-government bodies, approval of prices (tariffs) of services (works) provided by educational and medical institutions, organizations, irrespective of ownership form, etc.);
- over regulation of the advertising activity of advertisers, advertising agent, and advertising distributors (protection against unfair competition in advertising, prevention and suppression of improper advertisement, sending materials related to violations of the advertising legislation to the licensing authorities to have the license of the violating entity suspended or revoked, etc.);

### **Methods of Anti-Monopoly Regulation:**

- Price regulation by the establishment of prices/tariffs or their limits;
- The establishment of profitability limits;
- Identification of consumers/subscribers entitled to mandatory servicing, and/or establishment of minimal level of their supply in cases where their needs in goods/services produced/sold by a natural or permitted monopoly may not be fully satisfied, taking into account the protection of citizens' rights and legal interests, national security, the protection of the environment, and the protection of cultural property;
- The imposition of trade mark-ups;
- The imposition of obligations on engineering and technical services being natural monopoly entities, development of respective nets of engineering and technical maintenance in case it is impossible to fully satisfy the demands for goods (services) manufactured (provided) by this entity.



## 14. ENVIRONMENTAL PROTECTION

Ecological safety is an essential part of the country's national security and is a mandatory prerequisite for conservation of natural systems and sustenance of environmental quality.

### Legislation

Kyrgyz law contains provisions governing relations on the environmental protection and the rational use of natural resources. Among them are the Law of the Kyrgyz Republic "On Environment Protection" dated 16 June 1999, "On Protection of Atmospheric Air" dated 12 June 1999, "On Environmental Impact Review" dated 16 June 1999, "On Specially Protected Natural Areas" dated 3 May 2011, "On Biosphere Areas in the Kyrgyz Republic" dated 9 June 1999, "On Radiation Safety of Kyrgyz Population" dated 17 June 1999, and other normative legal acts that establish a legal basis for the protection of the environment and its components. Special requirements on ecological safety for the protection of atmospheric air, water objects, species of fauna and flora, soil and natural landscapes, as well as for the disposal of the production and consumption waste are set forth in the Law "General Technical Regulations to Ensure Ecological Safety in the Kyrgyz Republic" dated 8 May 2009.

The Kyrgyz Republic is getting more actively involved in the world community activity aimed at restraining global environmental threats including the process of the unification efforts of states. Since 2007, the Kyrgyz Republic has acceded to 11 international environmental conventions and 3 protocols to them<sup>93</sup>.

Currently, the competent public authority in charge of environmental protection, ecological security and nature management policy is the State Agency for Environment Protection and Forestry under the Government of the Kyrgyz Republic (the Agency)<sup>94</sup>.

The competent public authority responsible for state supervision and control over environmental and technical safety is the State Inspection Office for Environmental and Technical Safety under the Government of the Kyrgyz Republic (SIETS)<sup>95</sup>.

### Environmental Impact Review

Under the legislation of the Kyrgyz Republic, business entities' projects related to the use of natural resources are subject to environmental impact review<sup>96</sup>. This requirement has been introduced to prevent negative consequences for public health and the environment that may be caused by business and other activities. In addition, the adequacy of planned activities has to be assessed at stages preceding decisions on compliance with legislation on the environmental protection of the Kyrgyz Republic.

The following two types of environmental impact review are being performed in the Kyrgyz Republic: **a state review of environmental impact** and **a public review of environmental impact**. It is prohibited to fund and implement projects related to the use of natural resources if they have not undergone a state review of their environmental impact.

93 Concept paper on ecological safety of the Kyrgyz Republic approved by Kyrgyz Republic Presidential Edict No. 506: dated November 23, 2007.

94 Regulations on the State Agency for Environmental Protection and Forestry under the Government of the Kyrgyz Republic approved by Governmental Resolution No. 123 dated February 20, 2012.

95 Regulation on State Inspection Office for Environmental and Technical Safety under the Government of the Kyrgyz Republic N 136, dated February 20, 2012.

96 The Law of the Kyrgyz Republic "On Environmental Impact Review", No. 54, dated June 16, 1999 (with the latest amendments of May 4, 2015 No. 92).

In the course of designing, placing, constructing, reconstructing, re-equipping, and clearing objects and activities that may directly or indirectly influence the environment for operation, steps for protection, rational use, replenishment of natural resources and environmental enhancement have to be taken subject to the environmental norms, and impact of the planned activities upon the environment has to be assessed.

### **Environmental Standardization and Certification**

Products/processes/services produced within the Kyrgyz Republic or imported into its territory that are potentially threatening environmental safety, people's health or lives, or the replenishment and rational use of natural resources, are subject to environmental standardization and certification. A list of such products is approved by the Government of the Kyrgyz Republic.

### **Environmental Impact Audit**

To prevent and restrain violations of environment legislation and assess the prospective risk of pollution as a result of a company's previous activities, independent experts may provide an environmental impact audit for the purpose of the company's self-testing. Legal entities interested in an environmental impact audit perform it using their own funds or funds raised subject to the procedure provided by legislation.

## 15. CUSTOMS REGULATION

The Treaty on Accession of the Kyrgyz Republic to the Treaty on the Eurasian Economic Union dated May 29, 2014 was signed on December 23, 2014 and entered into force on August 12, 2015. At present, the Kyrgyz Republic is a member of the Eurasian Economic Union (EAEU) and the treaties and acts of the EAEU (including the Treaty on the Customs Code of the Customs Union of November 27, 2009) became effective for the Kyrgyz Republic.<sup>97</sup>

Customs relations in the Kyrgyz Republic are regulated by the customs legislation of the Customs Union (including the Customs Code of the Customs Union), the customs legislation of the Kyrgyz Republic, which is based on the Constitution of the Kyrgyz Republic and consists of the Law “On Customs Regulation in the Kyrgyz Republic” and other normative legal acts, as well as international treaties and other international customs law provisions.

The authority in charge of customs regulation in the Kyrgyz Republic is the State Customs Service under the Government of the Kyrgyz Republic.

Customs regulation in the Customs Union is implemented in compliance with the customs legislation of the Customs Union, and where there is no such regulation, before the establishment of appropriate legal relations at the level of the customs legislation of the Customs Union, in compliance with the legislation of the member-states of the Customs Union.

The goods are subject to customs declaration when placed under a customs procedure or in other cases specified by the Customs Code of the Customs Union.

The customs declaration of goods is performed by the declaring party or the customs representative acting on behalf and under the instructions of the declaring party.

Customs declaring is made in writing and/or electronically by filling out a customs declaration form.

Customs control is implemented by the customs bodies in compliance with the customs legislation of the Customs Union and the legislation of the member-states of the Customs Union. On behalf of the customs bodies, customs control is implemented by officials of the customs bodies authorised to implement it in compliance with their official (functional) duties.

Following the party's choice, the goods moved across the customs border are placed under a certain customs procedure according to the procedure and on conditions envisaged in the Customs Code of the Customs Union and the legislation of the member-states of the Customs Union.

The party may change the chosen customs procedure for another one in compliance with the Customs Code of the Customs Union.

### Customs Procedures

The following types of customs procedures are introduced for the goods for the purposes of customs regulation:

- 1) release for internal consumption;
- 2) export;

<sup>97</sup> <http://www.eurasiancommission.org/ru/nae/news/Pages/12-08-2015-1.aspx>

- 3) customs transit;
- 4) customs warehouse;
- 5) processing on the customs territory;
- 6) processing outside the customs territory;
- 7) processing for internal consumption;
- 8) temporary import (admission);
- 9) temporary export;
- 10) re-import;
- 11) re-export duty-free trade;
- 13) destruction;
- 14) abandoning in favour of the state;
- 15) free customs zone;
- 16) free warehouse;
- 17) special customs procedure (customs procedure specifying for customs purposes the requirements and terms of use and/or disposal of individual categories of goods on the customs territory of the Customs Union or outside it.

Free customs zone and free warehouse customs procedures are specified in international treaties of the member-states of the Customs Union.

A special customs treatment shall be established by the legislation of a member state of the customs union in compliance with the conditions and in respect of the categories of commodities which are defined by a decision of the Commission of the Customs Union.

### **Customs Payments**

Customs payment shall include:

- 1) import customs duty;
- 2) export customs duty;
- 3) value-added tax collected upon the import of goods to the customs territory of the Customs Union;
- 4) excise duty tax(s) collected upon the import of goods to the customs territory of the Customs Union;
- 5) customs fees.

Special, anti-dumping and compensation duties are introduced in compliance with the Treaty on the Eurasian Economic Union and are collected according to the procedure envisaged in the Customs Code of the Customs Union.

### **Customs Control, its Object and Forms**

Customs control is a multitude of measures taken by the customs bodies, including the use of the risk control system, to ensure the observance of the customs legislation of the Customs Union and the legislation of the member-states of the Customs Union.

Customs control is implemented by officials of the customs bodies for:

- 1) goods, including transport vehicles, moved across the customs border and/or subject to declaring in compliance with the Customs Code of the Customs Union;

- 2) customs declaration, documents and information on the goods that must be submitted in compliance with the customs legislation of the Customs Union;
- 3) activities of parties pertaining to the moving of goods across the customs border, rendering services in the customs sphere, as well as those, carried out as part of individual customs procedures;
- 4) persons crossing the customs border.

Customs control is implemented in the customs control zone, as well as in other places specified by the customs bodies being the place of location of goods, transport vehicles and documents containing information on them, including those in the electronic form.

The forms of customs control shall include:

- 1) checking of documents and information;
- 2) oral interrogation;
- 3) getting explanations;
- 4) customs surveillance;
- 5) customs examination;
- 6) customs search;
- 7) personal customs search;
- 8) checking of labelling of goods with special stamps, presence of identification signs on them;
- 9) customs examination of rooms and territories;
- 10) registration of goods under the customs control;
- 11) checking of the system of registration of goods and reports;
- 12) customs check.

## 16. INSURANCE

### Legislation

Activities of insurance companies are regulated by the Civil Code and the Laws of the Kyrgyz Republic “On Organization of Insurance in the Kyrgyz Republic”<sup>98</sup>, “On Mandatory Insurance of Employer Civil Liability for Death or Injury of Employee While on Duty”<sup>99</sup>, “On Mandatory Insurance of Carrier Civil Liability to Passengers”<sup>100</sup>, “On Mandatory Insurance of Civil Liability of Carriers of Hazardous Cargoes”<sup>101</sup>, “On Mandatory Insurance of Civil Liability of Entities Operating Hazardous Facilities”<sup>102</sup>, “On Peculiarities of Crop Insurance”<sup>103</sup>, “On Mandatory Insurance of Civil Liability of Vehicle Owners”<sup>104</sup>, “On Mandatory Insurance of Residential Premises against Fire and Natural Disasters”<sup>105</sup> and other normative legal acts.

The concept of development of the insurance sector of the Kyrgyz Republic for 2013-2017 was approved on April 15, 2013 by the Government resolution to promote insurance business in the Kyrgyz Republic.

### Establishment and Licensing

Insurance companies may be founded as open or closed joint stock companies with the minimum charter capital being<sup>106</sup>:

- at least 30 million KGS to engage in voluntary insurance and/or re-insurance services, except universal life insurance;
- at least 100 million KGS to engage in voluntary or mandatory insurance or reinsurance services including universal life insurance, and from July 1, 2017 at least 150 million KGS;
- at least 300 million KGS for operating insurance companies engaged solely in re-insurance;
- at least 1 million KGS for insurance or reinsurance broker activities.

Insurance activity is subject to licensing, and a separate license is required for each type of insurance activity. A license is valid for an unlimited period, unless otherwise provided therein. Insurance (premium or coverage) may be paid in either national or foreign currency. Where the insurance premium is paid in foreign currency, the insurance coverage may be paid in Kyrgyz soms if so agreed by the parties.

An intermediary activity of an insurance agent or broker involving the execution of insurance contracts on behalf of foreign insurance companies in the Kyrgyz Republic is not allowed. That said, the activity of foreign insurance brokers in the Kyrgyz Republic is allowed after the recognition of the respective license issued by the competent authorities of the foreign states in the manner provided by the laws of the Kyrgyz Republic on the licensing of certain types of activities.

98 The Law of the Kyrgyz Republic “On Organization of Insurance in the Kyrgyz Republic” dated July 23, 1998 (with the latest amendments as of July 15, 2009).

99 The Law of the Kyrgyz Republic “On Mandatory Insurance of Civil Liability of Employer for Death or Injury of Employee While on Duty” dated August 5, 2008.

100 The Law of the Kyrgyz Republic “On Mandatory Insurance of Civil Liability of Carrier to Passengers” dated August 4, 2008.

101 The Law of the Kyrgyz Republic “On Mandatory Insurance of Civil Liability of Carrier of Hazardous Cargoes” dated August 4, 2008.

102 The Law of the Kyrgyz Republic “On Mandatory Insurance of Civil Liability of Entities Operating Hazardous Facilities” dated August 15, 2008.

103 The Law of the Kyrgyz Republic “On Peculiarities of Crop Insurance” dated January 26, 2009 No. 31.

104 The Law of the Kyrgyz Republic “On Mandatory Insurance of Civil Liability of Vehicle Owners” dated July 24, 2015.

105 The Law of the Kyrgyz Republic “On Mandatory Insurance of Residential Premises against Fire and Natural Disasters” dated July 31, 2015.

106 Government Resolution No. 300 dated November 25, 2010.

As of May 2015 , there were 17 insurance, including two reinsurance organizations operating in the Kyrgyz Republic<sup>107</sup> and offering more than 84 types of voluntarily insurance and 5 types of mandatory insurance.

These businesses are mainly concentrated in Bishkek (16 companies) with only 1 company registered in Jalalabat town<sup>108</sup>.

The rate of insurance premiums received is growing from year to year, thus triggering the growth of the rate of insurers entering into insurance contracts with insurance companies. Before 2005, it was mainly property and life insurance which predominated; voluntary liability insurance evolved later, with the introduction in 2010 of mandatory civil liability insurance for: employers against liability for death or injury of employees while on duty; carriers of passengers; carriers of hazardous cargoes; entities operating hazardous facilities. In 2015, two more types of mandatory civil liability insurance were introduced: for auto-owners and homeowners against fire and natural disasters.

Most of insurance premiums account for property, general liability, mandatory civil liability and accumulative insurance.

### Prospects for Development

Currently, the State Service for Regulation and Supervision of the Financial Market under the Government of the Kyrgyz Republic jointly with the insurance companies and other stakeholders is considering the need for introducing the new types of mandatory insurance as listed below and ensuring the development of voluntary insurance:

- Mandatory auto-owner civil liability insurance;
- Mandatory tour operator and tour agent civil liability insurance;
- Mandatory notary liability insurance;
- Mandatory realtor civil liability insurance;
- Mandatory auditor and audit organization civil liability insurance;
- Mandatory permanent structure-owner civil liability insurance;
- Mandatory fire and rescue worker accident insurance;
- Mandatory rescue worker and emergency responder accident insurance;
- Mandatory law-enforcement officer life and health insurance.

It is also planned to improve insurance regulatory framework, enhance institutional capacity and public awareness and participation, and develop investment potential of insurance companies.

<sup>107</sup> <http://www.fsa.kg/>

<sup>108</sup> Report of the State Insurance Market Supervisory Authority of the Kyrgyz Republic for 2011, <http://fsa.kg/?id=2806>.

## 17. SECURITIES MARKET

### Legislation

The legislation of the Kyrgyz Republic regulating the securities market consists of the Civil Code of the Kyrgyz Republic, the Law of the Kyrgyz Republic “On Securities Market”, Law of the Kyrgyz Republic “On Joint Stock Companies”, Law of the Kyrgyz Republic “On State Service for Regulation and Supervision of Financial Market of the Kyrgyz Republic”, and subordinate legislation.

Exchange Trade System (ETS) and Kyrgyz Stock Exchange consolidated into one stock exchange in March 2011. Central Asian Stock Exchange (CASE) was declared bankrupt in 2010. At the moment, there are one stock exchange (Kyrgyz Stock Exchange CJSC) and one depository (Central Securities Depository) operating in the stock market.

### State Regulation

The state securities market regulator is the State Service for Regulation and Supervision of the Financial Market under the Government of the Kyrgyz Republic, which regulates the relations arising in connection with the state regulation and supervision over non-banking financial market, accounting and auditing.

The State Service for Regulation and Supervision of the Financial Market of the Kyrgyz Republic also being a supervisory authority is authorized, for the purposes of protecting the rights of investors and other third persons, to conduct inspections of securities market participants.

The state securities market regulator possesses relevant authorities to carry out inspections of securities market participants and is entitled to impose certain sanction thereon licenses professional securities market participants to carry out activities in the securities market.

### Investment in Securities

According to the information available on the KSE website, during the second half of 2016, on the trading floor of the KSE, there were registered 123 transactions involving 265,425,189 corporate securities for a total value of KGS 636.95 million issued by 29 companies operating in different sectors of economy.

### Primary market

Over the period of one month, in the primary market, there were offered securities of 6 companies including 4 companies operating in the banking sector.

### Secondary market

In the secondary market, there were registered 87 securities transactions for a total value of KGS 109,20 million.

### Listing

In June 2016, there were registered 35 listing transactions for a total amount of KGS 256.68 million.



## Securities Market Professionals

Currently, there is one officially registered licensed trader operator in the Kyrgyz Republic, Kyrgyz Stock Exchange CJSC (KSE).

At present, the Kyrgyz Government makes efforts to relocate all state treasury bills from the trade floor of the National Bank to the licensed trade floors, i.e. stock exchanges.

As of 2015, there were 64 professional securities market participants operating in the Kyrgyz Republic and holding licenses to engage in the following activities:<sup>109</sup>

- Company registrars – 17;
- Keepers of registers of securities holders;
- Depositaries – 4;
- Brokers – 21;
- Dealers – 24;
- Trust managers – 15;
- Investment fund managers – 12;
- Clearing companies – 1;
- Securities trading organizer – 1.

There are also investment funds and investment consultants operating in the Kyrgyz Republic. In the course of the stock market establishment, the following professional associations of securities market professionals have been founded to foster the development of the Kyrgyz securities market.

## CONCLUSION

This information guide attempts to address as fully as possible the issues faced by investors who wish to establish and conduct business in the Kyrgyz Republic. Nevertheless, we understand that it may not answer all your questions, as business and its regulation have multiple aspects. Moreover, any specific business situation involves a variety of questions, the answers to which can be found not only in specific law provisions, but also in the practice of their application.

However, we hope that the guide will suffice as a starting point for understanding business conduct in the Kyrgyz Republic better, and will help entrepreneurs and companies planning or conducting business in the Kyrgyz Republic to make their business more efficient.

Any comments on this guide would be greatly appreciated and should be e-mailed to: [lawyer@k-a.kg](mailto:lawyer@k-a.kg) (marked “Guide to Business in the Kyrgyz Republic”).

<sup>109</sup> Based on information found on the official website of the State Service for Regulation and Supervision of Financial Market under the Government of the Kyrgyz Republic - [www.fsa.kg](http://www.fsa.kg)

## **INFORMATION ABOUT KALIKOVA & ASSOCIATES LAW FIRM**

### **About Us**

Established in 2002, Kalikova & Associates Law Firm has rapidly grown into one of the leading firms in Kyrgyzstan specializing in business law services.

Over the years of its operation, Kalikova & Associates has accumulated a vast and diverse experience in providing legal services to companies doing business in Kyrgyzstan, including foreign investors, international organizations and diplomatic missions. Kalikova & Associates lawyers have consulted on a number of major investment projects in Kyrgyzstan in various areas such as mining, financing from international financial institutions, telecommunications and the recreation business.

### **Our Mission**

Our mission is to facilitate business development in the Kyrgyz Republic by rendering legal services that meet high standards of professional and ethical conduct.

### **Our Professional Objectives**

We strive to provide highly professional legal services in Kyrgyzstan based on the following principles:

- Working in a team environment
- Understanding our clients' businesses
- Producing efficient solutions based on the knowledge and understanding of not only legal, but also economic, political and cultural environment in Kyrgyzstan
- Maintaining high standards of professional conduct

### **Our Products**

We produce efficient legal solutions to protect, support and promote our clients' business.

### **Areas of Practice**

We provide services in the following areas:

- Antimonopoly Regulation & Competition
- Contracts
- Corporate Issues & Capital Market
- Employment & Migration
- Environmental Protection, Health & Safety
- Intellectual Property
- International Trade, Customs & Technical Regulation
- Legislative Policy & Regulatory Practice
- Litigation & Arbitration
- Mergers & Acquisitions, Business Restructuring & Reorganization
- Product Liability
- Project Finance

- Public-Private Partnership
- Taxation

We offer advice on the legal regulations of the following industries:

- Aviation
- Banking, Microfinance & Insurance
- Construction & Real Estate
- Education Services
- Fast-Moving Consumer Goods
- Hotel & Recreation
- Hydroenergy
- IT & Telecommunications
- International Organizations, Local Non-Governmental Organizations
- Mass Media
- Mining & Exploration
- Oil & Gas
- Pharmaceuticals & Beauty Products
- Tobacco & Alcohol

## **Clients**

Clients and beneficiaries of our services are leading local and foreign companies, transnational corporations, international organizations and financial institutions implementing long-term and short-term projects in Kyrgyzstan.

## **Experience and Qualification**

Our lawyers have played an active role in negotiating, structuring and launching major investment projects in Kyrgyzstan in gold mining industry, manufacture of tobacco products, hotel business, glass and cement production, trade, banking, microfinance, telecommunications, exploration and mining, aircraft leasing, electric energy generation and distribution and a number of other industries.

## **Professional Team**

Currently, there are 21 lawyers in our firm, educated both in Kyrgyzstan and abroad. Our lawyers are members of the Association of Lawyers of Kyrgyzstan, American Bar Association, International Bar Association, arbitrators of the International Court of Arbitration of the Kyrgyz Republic. Our team includes licensed litigation lawyers and patent attorneys.

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