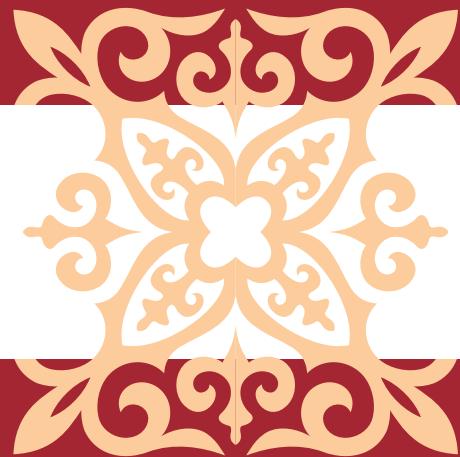


# BUSINESS IN THE KYRGYZ REPUBLIC: LEGAL ASPECTS 2023

KALIKOVA &  
ASSOCIATES



Aurora Business Center, 7th Floor,  
1A Igemberdiev Street, Bishkek,  
720005, Kyrgyz Republic

Phone: +996 (312) 66 60 60  
+996 (312) 97 68 43

E-mail: office@ka.legal  
Website: <http://www.k-a.kg>

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## FOREWORD

Dear Reader,

This information and reference guide is another regular issue which 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.

We have been releasing this guide since 2009 and are proud to remark that over more than 14 years of publications, it has been used not only by our customers but also by the public authorities of the Kyrgyz Republic. All editions are published in the Russian and English languages<sup>1</sup>. This issue was prepared by our entire team of lawyers practicing in various areas of commercial law. We constantly strive to improve our professional skills and explore new ideas for growth and this publication is one example of our endeavours.

We thank our readers and want to emphasize that our joint 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 modest 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 Team

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<sup>1</sup>The English version of the guide is available on our website: <http://www.k-a.kg/eng/business-guide>.

## 1. KYRGYZSTAN: OVERVIEW

### 1.1. Geography

The Kyrgyz Republic is located in Central Asia and has an area of 199,9 thousand square kilometres, or 77,182 square miles.

The Kyrgyz Republic borders Kazakhstan to the north, Uzbekistan to the west and north-west, Tajikistan to the south-west, and China to the south and south-east.

The landscape includes all natural zones common for the northern hemisphere, except the tropics.

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 significance (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 2<sup>nd</sup> 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>2</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 9<sup>th</sup> 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.

<sup>2</sup> <https://www.open.kg/about-kyrgyzstan/population/158-naselenie-kyrgyzstana-s-drevneyshih-vremen-do-vi-veka.html>

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>3</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.

### 1.3. Population and Language

At the beginning of 2022 the number of permanent population of the Kyrgyz Republic was 6,747,323 people (men – 49.63%, women – 50.37%).<sup>4</sup>

There are more than 20 different nationalities in the Kyrgyz Republic.

Statistics show that children and adolescents represent 34.65%, working age population represents 56.80% and above working age population represents 8.55% of the total population<sup>5</sup>.

The national language of the Kyrgyz Republic is Kyrgyz, while the official language is Russian. In the Kyrgyz Republic, official documents of state authorities and local self-government must be adopted in the national language and in cases provided by law, must be translated into the official language and published in two languages.

<sup>3</sup> Kyrgyz Statehood. Century Statistics. Bishkek, 2003.

<sup>4</sup> The six-millionth resident was born on November 25, 2015.

<sup>5</sup> <http://www.stat.kg/ru/statistics/naselenie>

## 1.4. National transport system

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. Currently, there are 11 airports in the Kyrgyz Republic, including 5 international 6 regional ones.<sup>6</sup>

The total length of roads in the Kyrgyz Republic is 34,000 km, including 18,585 km of general use roads maintained by the structural units of the Kyrgyz Ministry of Transport and Communication and 15,190 km roads of cities, villages, agricultural, industrial and other enterprises.<sup>7</sup>

The Kyrgyz railway network is 424.6 km long and is represented by separate, unrelated lines, geographically divided into two sections : the north (323.4 km Balykchy – Turksib (Kazakhstan)) and the south (101.2 km) providing output from Kyrgyzstan to the railway network in neighboring states - Kazakhstan and Uzbekistan.<sup>8</sup>

### Transit choices

Kyrgyzstan has signed air service agreements with more than 30 countries of the world.<sup>9</sup>

Roads link Kyrgyzstan with all neighbouring countries (Uzbekistan, Tajikistan, Kazakhstan, and China). The Kyrgyz Republic has signed bilateral agreements on international road transport with 19 states, including all CIS countries, Germany, Georgia, Iran, China, Latvia, Mongolia, Pakistan, Poland, Turkmenistan, Turkey and Ukraine. Apart from that, there are two interdepartmental agreements signed with

<sup>6</sup> The Government Program on Civil Aviation Development of the Kyrgyz Republic for 2016-2020, approved by the Government Resolution No. 131 of March 17, 2016; <http://www.airport.kg/about/airports>

<sup>7</sup> The Government Resolution No. 372, July 1, 2016, approving the Main Guidelines for Development of Road Industry 2016-2025.

<sup>8</sup> The Cabinet of Ministers Resolution No. 258 of May 20, 2022, approving the Main Guidelines for Development of Railway Transport of Kyrgyz Republic 2022-2026.

<sup>9</sup> <https://www.caa.kg/mezhdunarodnaya-deyatelnost/>

France and Austria.<sup>10</sup>

The railway network links Kyrgyzstan with Uzbekistan and Kazakhstan. The feasibility study of the China - Kyrgyzstan - Uzbekistan railway project is currently underway.<sup>11</sup>

### Mail and Freight Services

In the Kyrgyz market, mail and freight services are provided by both state-owned and private postal and shipping operators. Thus, Kyrgyz Pochtasy SOE (Kyrgyz Postal Operator) provides regular and express mail, parcels and packages delivery (via ground or air), international express mail, and domestic or international money order services. Express mail services are provided by representative offices and licensees of international companies such as DHL, FedEx, TNT Express, and UPS, as well as by local companies.

## 1.5. Communication Network

### The Internet

There are a broad variety of options for Internet access ranging from dial-up to wired broadband and Wi-Fi access and satellite-based Internet. Leading service providers include ElCat, AsiaInfo, Kyrgyztelecom, Aknet, Saima Telecom, Alfa Telecom, IPNET, Mega-Line, Sky Mobile, and others.

### Mobile Telecom Services

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

- GSM, WCDMA/UMTS, LTE mobile network provider operating under Beeline brand;
- GSM, WCDMA/UMTS, LTE mobile network provider operating under MegaCom brand;
- GSM, WCDMA/UMTS, LTE mobile network provider operating under O! brand.

<sup>10</sup> <https://mtd.gov.kg/v-sootvetstvii-s-mezhpravitelstvennymi-soglasheniyami-podpisannymi-pravitelstvom-kr-ministerstvo-osushhestvlyaet-obmen-blankami-razreshenij-na-osushhestvlenie-mezhdunarodnyh-perevozok-avtomobilnym-tra/>

<sup>11</sup> Cabinet of Ministers Ordinance No.388-r of July 15, 2022.

Since August 15, 2019, the mobile virtual network operator KT Mobile has started operating under Salam brand.<sup>12</sup> This is the project of state-owned network operators Kyrgyztelecom and Alfa Telecom (MegaCom brand).

## 1.6. Political System

The political system of the Kyrgyz Republic is defined in the Constitution<sup>13</sup>. According to the constitutional principle of separation of powers, the state power of the Kyrgyz Republic is exercised by legislative, executive, and judicial branches coordinated by 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 5 years.
- The Jogorku Kenesh – Parliament of the Kyrgyz Republic – is a representative body exercising the legislative power. The Jogorku Kenesh of the Kyrgyz Republic consists of 90 Parliamentarians elected for the term of 5 years.
- The executive power in the Kyrgyz Republic is exercised by the President who is authorized by constitutional law to direct the activities of the executive branch, to give instructions to the Cabinet of Ministers and its subordinate bodies, to control the execution of instructions, to reverse the acts of the Cabinet of Ministers and its subordinate bodies. The President determines the structure and composition of the Cabinet of Ministers and suspends the members of the Cabinet of Ministers.
- The judicial power in the Kyrgyz Republic is exercised only by the courts. In the cases and pursuant to the procedure provided by law, the citizens of the Kyrgyz Republic have the right to participate in the administration of justice.

<sup>12</sup> <http://salam.online/index.html>.

<sup>13</sup> Constitution of the Kyrgyz Republic adopted on June 27, 2010 as amended by the Law of the KR of December 28, 2016 No. 218.

## 1.7. Judicial System

The judicial system of the Kyrgyz Republic consists of the Constitutional Court, Supreme Court, and local courts. The judicial power is exercised by means of constitutional, civil, criminal, administrative, and other proceeding.

It should also be noted that in the Kyrgyz Republic there exist courts of arbitration which resolve civil disputes outside the judicial courts. It should be noted that from January 1, 2023, disputes over calculation and payment of taxes, or recovery of tax arrears are qualified as civil disputes. Accordingly, such disputes may be referred to arbitration. 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.

### Courts of general jurisdiction are as follows:

- Courts of first instance: district courts, city district courts, and administrative courts. All of them consider and resolve the cases falling within their jurisdiction on the merits.
- Courts of second instance: regional courts, Bishkek City court. Each of these courts consists of three judicial panels: panel on criminal and misdemeanour cases, panel on civil and commercial cases, and panel on administrative cases. Judicial panels of courts of second instance revise judicial acts of court of first instance that have not come into legal force.
- Court of cassation instance: the Supreme Court of the Kyrgyz Republic, consisting of the Plenary Assembly and 3 respective panels made up of 3 judges. The Supreme Court reviews the judicial acts that have come into legal force by way of cassation. It should be noted that the judicial acts of the court of first instance that have come into legal force but have not been appealed to the court of second instance may not be revised by way of cassation.

Constitutional review is exercised by the Constitutional Court of the Kyrgyz Republic.

### Court proceedings in Kyrgyz Republic: Some Specific Features

Court proceedings in civil and administrative cases in the Kyrgyz Republic have some specific features that should be taken into account. In particular:

- the court fee<sup>14</sup> is payable in advance at the time of filing the claim;
- claims for damages must be expressed in local currency, even if a dispute arises from an international economic transaction and the transaction currency is specified in the contract;
- in civil cases, provisional measures can be granted by a court only after acceptance of the claim which may be appealed to a court of higher instance;
- an attorney cannot independently obtain information about the availability or lack of assets (cash in bank, real estate, shares) of the defendant. Such information can be obtained on the basis of subpoena and the attorney may make a motion for such subpoena to the court reviewing the case;
- court proceedings can be protracted due to actions of unscrupulous parties who may keep appealing procedural decisions of the court;
- administrative acts of the public authorities can be appealed to the court only after completion of pretrial appeal process in administrative proceedings.

### Arbitration: Some Specific Features

The national arbitration legislation is based on the UNCITRAL Model Law on International Commercial Arbitration. International commercial arbitration is not separately regulated in the Kyrgyz Republic but is governed by the Arbitral Tribunals Law of the Kyrgyz Republic.

<sup>14</sup> Non-Tax Revenue Code of the Kyrgyz Republic of August 10, 2018 No.90 provides for exemptions from payment of court fee.

The International Court of Arbitration of the Kyrgyz Chamber of Commerce and Industry is one of the permanent arbitral tribunals in the country.<sup>15</sup>

Arbitration proceedings in the Kyrgyz Republic also have some specific features, for example:

- the state court may not reverse an arbitral award, but may refuse to enforce it. This means that the respondent and/or the debtor is deprived of the active right to defend its interests at the place of arbitration, as it has to wait until the claimant and/or creditor applies to the state court for enforcement of the award where it may present its arguments;
- the state court may communicate with the arbitral tribunal to enforce awards and to grant provisional measures, but not to enforce subpoenas to obtain evidence;
- there is a growing tendency among the courts to apply a broad interpretation of non-arbitrability of disputes. However, there is no track record of the Supreme Court decisions on this matter.

Since 2017, after the introduction of the Mediation Law of the Kyrgyz Republic<sup>16</sup>, mediation has become one more available alternative dispute resolution method. Mediation can be used to resolve disputes arising in the area of civil, family and employment law, and also criminal law, where it is specifically provided by law. As a result of mediation, the parties can sign a mediation agreement setting out the terms and conditions of the mediation process, as well as the consequences of a failure to perform or improper performance of agreement by the parties.

### Enforcement of Judgment

Under Kyrgyz law<sup>17</sup>, writs of execution may be directed to enforcement

<sup>15</sup> <http://www.arbitr.kg/web/index.php>

<sup>16</sup> The Law of the Kyrgyz Republic "On Mediation" dated July 28, 2017 No. 161.

<sup>17</sup> The Law of the Kyrgyz Republic "On enforcement proceedings and the status of enforcement officers in the Kyrgyz Republic" dated January 28, 2017 No. 15 (with the latest amendments as of August 17, 2020).

agents for execution. Writs of execution include the following:

- Writs of execution to enforce judgments, including verdicts in the part concerning asset recovery;
- Court orders;
- Court rulings or orders granting provisional measures, compensation for damages or confiscation of property, or relating to violation cases;
- Notarized alimony agreements;
- Enforceable notarial deeds;
- Orders issued by public authorities, local self-governments or officials authorized to review cases of violations in the part concerning asset recovery, including orders executed in electronic form and certified by electronic signature of officials authorized to review cases of violations;
- Certificates issued on the basis of decisions of employment dispute commissions and trade unions;
- Orders of the enforcement agent on recovery of damages awarded, charging the enforcement fee, and recovering the enforcement costs;
- Acts issued by other public authorities, local self-governments and officials in cases provided by law.

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 10th 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 22nd 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 7th October

2002<sup>18</sup>;

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

## 1.8. 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.

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 78<sup>th</sup> out of 177 countries in the 2022 Index of Economic Freedom released by the Heritage Foundation in collaboration with the Wall Street Journal. The Kyrgyz Republic is ranked 24<sup>th</sup> among 39 countries in the Asia-Pacific region, and its overall score is above the regional and world averages.<sup>19</sup>

### Key Macroeconomic Indicators<sup>20</sup>

In January-December 2022, real GDP growth rate reached 0.8%, with GDP (excluding Kumtor) growing by 0.9%.

<sup>18</sup> The 2002 Convention repealed and replaced the 1993 Convention. However, the 1993 Convention continues to apply to the relations between the Kyrgyz Republic and the member state of this Convention for which the 2002 Convention has not become effective yet.

<sup>19</sup> <https://www.heritage.org/index/country/kyrgyzrepublic>

<sup>20</sup> <https://mineconom.gov.kg/ru/post/8808>

In January-December 2022, the volume of industrial production increased by 11.4%, or 4.6% (excluding Kumtor). This was due to an increase in the output of basic metals (by 21.5%), wood and paper products, printing products (by 27.0%), petroleum products (by 12.3%), food products (including beverages) and tobacco products (by 11.1%), textile, clothing, footwear, leather and leather products (by 7.2%), and mining products (by 8.2%).

In the service sector, the production volume increased by 5.1% compared to 2021. This was ensured mainly by the growth in the volumes of wholesale trade (by 6.0%) and retail trade (by 6.5%).

The reduction in the supply of electricity, gas and steam by 8.3% was due to the decrease in the production, transmission and distribution of electricity, and in the provision (supply) of steam. The decrease in the volume of water supply, purification, waste treatment and recycling of secondary raw materials by 8.7% is due to the decrease in the collection, processing and disposal of waste and recycling of secondary raw materials.

The growth of fixed asset investments was noted in manufacturing construction, transport, cargo storage, hotels, restaurants, real estate, public administration, defence, education, and housing construction sectors.

The main volume of investments (79.5% of the total volume) is directed to mining construction, electricity, gas and steam supply, air conditioning, transport, cargo storage, education, and housing construction sectors.

The average monthly salary amounted to 25,711 soms and increased by 31.1% compared to 2021, and its real size, taking into account the consumer price index, increased by 15.2%.

The volume of foreign trade for 11 months amounted to 10.6 billion US dollars and increased by 40.4%, with export decreasing by 22.4% and import increasing by 73.4% compared to January-November last year.

## 1.9. Foreign Affairs

### Diplomatic Relations with Foreign Nations

Since gaining independence in 1991, the Kyrgyz Republic has established diplomatic relations with 170 countries.

The list of the countries with which the Kyrgyz Republic has diplomatic relations includes: Antigua and Barbuda, Afghanistan, Albania, Algeria, Andorra, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Bahrain, Belarus, Belgium, Benin, Bosnia and Herzegovina, Brazil, Brunei-Darussalam, Bulgaria, Burundi, Cambodia, Cameroon, Canada, Cape Verde, the Central African Republic, Chad, Chile, China, Columbia, Congo, Costa Rica, Cote d'Ivoire, Croatia, Cuba, Cyprus, the Czech Republic, the Commonwealth of Dominica, Denmark, Djibouti, the Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Finland, Fiji, France, Gambia, Germany, Georgia, Ghana, Greece, Guatemala, Guinea, Guyana, Hungary, India, Indonesia, Iraq, Iran, Ireland, Island, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kiribati, the Korean People's Democratic Republic, the Republic of Korea, Kuwait, Laos, Latvia, Lebanon, Lesotho, Liberia, Libya, Lichtenstein, Lithuania, Luxemburg, Macedonia, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia, Moldova, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, the Netherlands, New Zealand, Nicaragua, Norway, Oman, Palau, Palestine, Panama, Paraguay, Pakistan, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russia, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, the Solomon Islands, the South African Republic, Spain, Sri Lanka, Sudan, Surinam, Sweden, Switzerland, Syria, Tajikistan, Thailand, the Kingdom of Tonga, the Togolese Republic, Tunisia, Turkey, Turkmenistan, Tuvalu, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United States of America, the United Arab Emirates, Uruguay, Uzbekistan, Vanuatu, Vatican, Venezuela,

Vietnam, Yemen, Zambia.<sup>21</sup>

The Kyrgyz Republic has set up diplomatic missions in the following countries: Austria, Azerbaijan, Afghanistan, Belarus, Belgium, Hungary, Germany, India, Iran, Italy, Kazakhstan, Qatar, China, Korea, Kuwait, Malaysia, United Arab Emirates, Pakistan, Russia, Saudi Arabia, United Kingdom of Great Britain and Northern Ireland, United States of America, Canada, Tajikistan, Turkey, Uzbekistan, Ukraine, France, Switzerland, and Japan.

The Kyrgyz Republic maintains honorary consulates in various foreign states and also has consulates in the following cities:

- A general consulate in Yekaterinburg, 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 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.

<sup>21</sup> <https://mfa.gov.kg/ru/osnovnoe-menyu/vneshnyaya-politika/mezhdunarodnye-dogovory/spisok-stran-s-kotoryimi-ustanovleny-dipotnosheniya/spisok-stran-s-kotoryimi-kr-ustanovil-diplomaticheskie-otnosheniya>

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

Currently, the Kyrgyz Republic is a member of 80 international and regional organizations, including:<sup>22</sup>

- cooperation organizations: the United Nations Organization (UN), the Organization for Security and Cooperation in Europe (OSCE), the Economic Cooperation Organization (ECO), the Organization of Islamic Cooperation (OIC), the Collective Security Treaty Organization (CSTO), the Commonwealth of Independent States (CIS), the Eurasian Economic Cooperation (EAEC), the Shanghai Cooperation Organization (SCO);
- financial institutions: the International Monetary Fund (IMF), the Asian Development Bank (ADB), the International Bank for Reconstruction and Development (IBRD, the World Bank Group), the International Development Association (IDA, the World Bank Group), the European Bank for Reconstruction and Development (EBRD), the Islamic Development Bank (IDB), the International Finance Corporation (IFC), the Multilateral Investment Guarantee Agency (MIGA);
- trade organizations: the World Trade Organization (WTO), International Islamic Trade Finance Corporation (ITFC), the Economic Cooperation Organization Trade and Development Bank, World Customs Organization;
- food and agriculture organizations: the UN Food and Agriculture Organization (FAO), the International Commission on Irrigation and Drainage (ICID), the International Commission for Water Coordination (ICWC), the Secretariat of the UN Convention to Combat Desertification (UNCCD), the World Organization for Animal Health the CIS Intergovernmental Council for Veterinary Cooperation, and the European and Mediterranean Quarantine and Plant Protection Organization (EPPO);

<sup>22</sup> Resolution of the Government of the Kyrgyz Republic "On improving the efficiency of cooperation between the Kyrgyz Republic and international organizations, integration associations and treaty bodies" dated December 2, 2015 No. 817.

- transport and communications organizations: the International Telecommunication Union (ITU), the Universal Postal Union (UPU), the International Civil Aviation Organization (ICAO), Interstate Aviation Committee (IAC), the Transport Coordination Meeting, the Organization for Cooperation of Railways (OSJD), the Regional Commonwealth in the field of Communications (RCC);
- 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 (WIPO), the Eurasian Patent Organization, the Interstate Council for Legal Protection of Intellectual Property;
- energy organizations: the Energy Charter Secretariat (ECS), the International Atomic Energy Agency (IAEA);
- 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 Secretariat of the Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and their Disposal, the Secretariat of the Stockholm Convention on Persistent Organic Pollutants, the Secretariat of the UN EEC Convention on Long-range Trans-boundary Air Pollution, the Vienna Convention for the Protection of the Ozone Layer, the UN Convention on Biological Diversity, the UN Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Green Climate Fund (GCF), the Climate Change Adaptation Fund (Adaptation Fund), the Global Environment Facility (GEF);
- natural disaster prevention organizations: the World Meteorological

Organization (WMO), the Asian Disaster Reduction Center (ADRC), the CIS International Council for Natural and Man-made Disasters, and the CIS International Council for Hydrometeorology;

- standards organizations: the CIS Interstate Council for Standardization, Metrology and Certification, the Interstate Scientific-and-Technical Commission for Standardization, Technical Regulation and Conformity Assessment of Construction Products, the International Organization for Standardization (ISO), the European Committee for Standardization.

### **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.

### **The Commonwealth of Independent States (CIS) – since March 1992**

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 Islamic Cooperation (formerly, 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 Eurasian Economic Union (EEAU) – August 2015**

The Eurasian Economic Union is a regional economic integration organization possessing international legal personality and established by the Eurasian Economic Union Treaty. The EEAU guarantees the free movement of goods, services, capitals and labour, and the pursuit of coordinated, concerted and common policies in the economic sectors. The EEAU member states are: the Republic of Armenia, the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic and the Russian Federation. The EEAU was established with an aim to ensure overall modernization, cooperation and enhanced competitiveness of national economies and favourable conditions for stable development and raising of the living standards of the peoples of the member states.

### **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 basic law and paramount law of the Kyrgyz Republic is the Constitution which recognizes the principle of diversity and equal legal protection of ownership types and guarantees protection against arbitrary deprivation of property without the consent of the owner.

The Constitution is the basis for enacting other laws, including the laws directly or indirectly regulating investment in the Kyrgyz Republic such as the "Law on Licensing and Permitting System in the Kyrgyz Republic", the "Law on Joint-Stock Companies", the "Law on Business Partnerships and Companies", the "Law on Mining", the "Law on Free Economic Zones in the Kyrgyz Republic", the Law on Customs Regulation, the Tax Code, the Land Code, the Civil Code, the "Law on Public-Private Partnership in the Kyrgyz Republic" and many others.

There is a special law enacted in the Kyrgyz Republic to regulate investment activities: the Investment Law of the Kyrgyz Republic.

Thus, under Kyrgyz law,<sup>23</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

23 The Law of the Kyrgyz Republic "On Investments in the Kyrgyz Republic" dated March 27, 2003 No. 66 (with the latest amendments as of August 9, 2022, No.90).

mutual support, encouragement and protection of investment (capital expenditure). Such treaties have been signed with a number of countries such as<sup>24</sup>:

- The People's Republic of China (1995)<sup>25</sup>;
- The Republic of Turkey (signed in 2018)<sup>26</sup>;
- The Republic of Ukraine (treaty signed in 1993)<sup>27</sup>;
- The United States of America (1994)<sup>28</sup>;
- The Republic of Armenia (1995)<sup>29</sup>;
- The United Kingdom of Great Britain and Northern Ireland (1998)<sup>30</sup>;
- 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 (first BIT signed in 1997, second BIT signed in 2016)<sup>31</sup>;
- The Republic of India (2019)<sup>32</sup>;
- The Republic of Kazakhstan (BIT signed in 1997)<sup>33</sup>;
- The Republic of Belarus (2001)<sup>34</sup>;

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24 In parentheses are the years on which the respective treaties came into effect in the Kyrgyz Republic, unless stated otherwise.

25 Notification letter from the People's Republic of China dated December 21, 1993, notification letter from the KR dated August 10, 1995.

26 Ratified by the KR Law, January 14, 2020 No. 5.

27 Notification letter from the KR dated August 7, 1997.

28 Ratified by the Parliament Resolution, December 11, 1993 No. 1291-XII.

29 Entered into force on November 26, 1995. Notification letter from the Republic of Armenia dated October 10, 1995, notification letter from the KR dated October 27, 1995.

30 Ratified by the KR Law, January 6, 1997 No. 5.

31 Ratified by the KR Law, July 20, 2017 No. 134.

32 Not ratified.

33 Ratified by the KR Law, August 17, 2004 No. 151.

34 Ratified by the KR Law, March 3, 2000 No. 50

- The People's Republic of Mongolia (treaty signed in 1999)<sup>35</sup>;
- The Swiss Confederation (2003)<sup>36</sup>;
- The Republic of Tajikistan (2001)<sup>37</sup>;
- The Kingdom of Sweden (2003);
- The Republic of Moldova (2004)<sup>38</sup>;
- The Republic of Finland (2004)<sup>39</sup>;
- The Republic of Korea (2008)<sup>40</sup>;
- The Republic of Latvia (signed in 2008)<sup>41</sup>;
- The Republic of Lithuania (2009)<sup>42</sup>;
- Denmark (signed in 2001)<sup>43</sup>;
- Malaysia (signed in 1995)<sup>44</sup>;
- The Islamic Republic of Pakistan (signed in 1996)<sup>45</sup>;
- The Republic of Uzbekistan (signed in 1997);
- The United Arab Emirates (signed in 2014)<sup>46</sup>;
- State of Qatar (signed in 2014)<sup>47</sup>;
- State of Kuwait (signed in 2015)<sup>48</sup>;
- The Republic of Austria (signed in 2016)<sup>49</sup>.

35 Ratified by the KR Law, July 10, 2001 No. 66.

36 Ratified by the KR Law, January 15, 2003, No. 26.

37 Ratified by the KR Law, November 20, 2001 No. 95.

38 Ratified by the KR Law, December 30, 2003 No. 251.

39 Ratified by the KR Law, August 17, 2004 No. 154.

40 Ratified by the KR Law, June 23, 2008 No. 120.

41 Ratified by the KR Law, March 4, 2009 No. 74.

42 Ratified by the KR Law, February 6, 2009, No. 38.

43 Not ratified.

44 Not ratified.

45 Ratified by the KR Law, May 23, 2002, No. 83.

46 Ratified by the KR Law, May 28, 2015, No. 119.

47 Ratified by the KR Law, May 28, 2015, No. 117.

48 Ratified by the KR Law, July 21, 2016, No. 127.

49 Ratified by the KR Law, January 25, 2017, No. 11.

The Ministry of Economy and Commerce of the Kyrgyz Republic is the central executive authority in charge of developing and pursuing the state investment policy.

The National Investment Agency of the Kyrgyz Republic under the President of the KR is the public authority in charge of developing and pursuing the state investment policy and promoting export which is directly accountable to the President and the Cabinet of Ministers of the KR.<sup>50</sup>

## 2.2. State Guarantees to Foreign Investors

Under Kyrgyz law,<sup>51</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 laws 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 competent government authorities 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;

50 Regulation on the National Investment Agency under the President of the Kyrgyz Republic, Annex 1 to the Presidential Edict of April 15, 2022, UP No.115.

51 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 August 9, 2022, No. 90).

- 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;
- 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 (except 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 favourable 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 executed by the Cabinet of Ministers of the Kyrgyz Republic**

The Cabinet of Minister 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 Cabinet of Ministers 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 10 million and the investor has internationally recognized business reputation, unique knowledge and experience in successfully implementing the projects in the similar area of practice<sup>52</sup>.

An investment agreement concluded between the Cabinet of Ministers of the Kyrgyz Republic and an investor cannot provide reliefs and preferences that are not prescribed by the laws of the Kyrgyz Republic.

### **2.4. Settlement of Investment Disputes**

Under Kyrgyz law,<sup>53</sup> the parties to an investment dispute may agree on any applicable procedure for its settlement.

Failing such an agreement, an investment dispute between the Kyrgyz authorities and an investor shall be settled wherever possible by

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52 Article 11-1 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 August 9, 2022, No.90).

53 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 August 9, 2022, No.90).

consultations between the parties. If the parties do not settle amicably within 3 months from the date 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 the foreign investor and the public authority agree in writing to settle the dispute in accordance with one of the following procedures by applying 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 under the arbitration rules of the United Nations Commission on International Trade Law.

Thus, in 2022, public offer of arbitration, previously specified in the law, was cancelled. At the same time, may BITs contain clauses that offer unequivocal consent to arbitration. In addition, in 2022, the Washington Convention on the Settlement of Investment Disputes between States and Nationals of Other States entered into force for the Kyrgyz Republic.

### 3. LEGAL STATUS OF FOREIGN NATIONALS

#### 3.1. Visa and Registration Requirements

Subject to Kyrgyz law,<sup>54</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>55</sup> of the foreign countries whose nationals are subject to a simplified visa regime. The Instruction on the procedure for processing and issuing visas of the Kyrgyz Republic, approved by the Resolution of the Government of the Kyrgyz Republic of March 15, 2017 No. 155 with the latest amendments as of August 19, 2022 No.466 provides that nationals of foreign countries included in this list are eligible to obtain Kyrgyz entry and exit visas from diplomatic missions and consular offices of the Kyrgyz Republic abroad or at the visa office of the MoFA at the international checkpoint<sup>56</sup>, and from consular offices in the Kyrgyz Republic at their personal request for a term of up to 90 days:<sup>57</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

54 The Law of the Kyrgyz Republic "On External Migration" dated July 17, 2000, No.61 (with the latest amendments as of February 16, 2023, No. 32).

55 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 8, 2021, No.66).

56 Visa point at the international checkpoint is the structural subdivision of the Consular Service Department of the MFA or authorized representative of the MFA in the KR and provides visa services at international checkpoints of the Kyrgyz Republic.

57 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 8, 2021, No.66).

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, the Islamic Republic of Iran (\*), the People's Democratic Republic of Algeria (\*\*), the People's Republic of Bangladesh (\*\*), the Arab Republic of Egypt (\*\*), the Republic of India (\*\*), the Hashemite Kingdom of Jordan (\*\*), the Lebanese Republic (\*\*), the Kingdom of Morocco (\*\*), the Federal Democratic Republic of Nepal (\*\*), the Islamic Republic of Pakistan (\*\*), the Tunisian Republic (\*\*), the Democratic Socialist Republic of Sri Lanka (\*\*).

\* only business or tourist visas valid through December 31, 2022.

\*\* only entry/exit tourist visas (up to 1 month) for foreign nationals with valid residence permits (resident cards) of the following foreign countries: the United Arab Emirates, the Kingdom of Saudi Arabia, the State of Kuwait, the State of Qatar, the State of Brunei Darussalam, the Sultanate of Oman and the Kingdom of Bahrain, valid through December 31, 2022.

**Visa-free travel** possibilities are granted on the basis of the legislation of the Kyrgyz Republic<sup>58</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 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, Montenegro, the Principality of Andorra, the Republic of Argentina, the Federative Republic of Brazil, the Republic of San Marino, the Republic of Chile, the Sultanate of Oman, the Republic of Albania, the Republic of Bulgaria, the Socialist Republic of Vietnam, the State of Israel, the Republic of Cyprus, the Republic of Northern Macedonia, the Republic of Romania, the Kingdom of Thailand, the United Mexican States;
- Visa-free entry for holders of all categories of passports of nationals of: the Republic of Armenia<sup>59</sup>, the Republic of Azerbaijan<sup>60</sup>, the

58 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 21, 2021, No. 85).

59 Agreement on visa-free travel for citizens of CIS member countries within their borders, signed in Bishkek on October 9, 1992.

60 Agreement on visa-free travel for citizens of CIS member countries within their borders, signed in Bishkek on October 9, 1992.

Republic of Belarus<sup>61</sup>, the Republic of Cuba<sup>62</sup>, the Republic of Georgia<sup>63</sup>, the Republic of Kazakhstan<sup>64</sup>, the Democratic People's Republic of Korea<sup>65</sup>, Malaysia<sup>66</sup> (up to 30 days), the Republic of Moldova<sup>67</sup>, Mongolia<sup>68</sup> (up to 90 days), the Russian Federation<sup>69</sup>, the Republic of Tajikistan<sup>70</sup>, the Republic of Ukraine<sup>71</sup> (up to 90 days), the Republic of Uzbekistan<sup>72</sup> (up to 60 days), the Turkish Republic<sup>73</sup> (only for tourist, business and official purposes), Vietnam<sup>74</sup>, Lao People's

61 Agreement on mutual visa exemption among the Governments of the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation and the Republic of Tajikistan signed in Minsk on November 30, 2000.

62 Agreement on mutual travels of citizens between the Governments of the USSR and the Republic of Cuba of January 10, 1985.

63 Agreement on visa-free travel for citizens of CIS member countries within their borders, signed in Bishkek on October 9, 1992.

64 Agreement on mutual visa exemption among the Governments of the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation and the Republic of Tajikistan signed in Minsk on November 30, 2000.

65 Agreement on mutual travels of citizens between the Governments of the USSR and the Democratic People's Republic of Korea of January 22, 1986.

66 Agreement on partial visa abolition between the Governments of the Kyrgyz Republic and Malaysia, signed in Kuala Lumpur on July 20, 1995.

67 Agreement on visa-free travel for citizens of CIS member countries within their borders, signed in Bishkek on October 9, 1992.

68 Agreement on mutual travels of citizens between the Governments of the Kyrgyz Republic and Mongolia signed in Bishkek on December 4, 1999.

69 Agreement on mutual visa exemption among the Governments of the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation and the Republic of Tajikistan signed in Minsk on November 30, 2000.

70 Agreement on mutual visa exemption among the Governments of the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation and the Republic of Tajikistan signed in Minsk on November 30, 2000.

71 Agreement on mutual travels of citizens between the Government of the Kyrgyz Republic and the Cabinet of Ministers of Ukraine signed in Kiev on February 25, 2004.

72 Agreement on mutual travels of citizens between the Governments of the Kyrgyz Republic and the Republic of Uzbekistan signed in Tashkent on October 3, 2006.

73 Agreement on mutual travels of citizens between the Governments of the Kyrgyz Republic and the Turkish Republic signed in Ankara on April 26, 2011.

74 Agreement on mutual travels of citizens between the Governments of the Kyrgyz Republic and the Socialist Republic of Vietnam signed on July 15, 1981.

Democratic Republic<sup>75</sup>;

- Visa-free entry for nationals holding diplomatic and service passports of: the Republic of Hungary<sup>76</sup>, the Islamic Republic of Pakistan<sup>77</sup>, the Islamic Republic of Iran<sup>78</sup>(up to 30 days for holders of service passports), the People's Republic of China<sup>79</sup>, Turkmenistan<sup>80</sup>, the Slovak Republic (up to 30 days)<sup>81</sup>, the Republic of Uzbekistan (up to 60 days), Singapore, the Republic of Korea (up to 30 days)<sup>82</sup>, the Republic of Indonesia<sup>83</sup>, the Republic of India (up to 90 days)<sup>84</sup>, the Republic of Poland (up to 90 days within a period of 180 days), the State of Kuwait (not exceeding 90 days per period of 60 months from

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75 Agreement on visa-free regime for citizens traveling on business with diplomatic or service passports between the Governments of the USSR and the Lao People's Democratic Republic, signed on December 20, 1984.

76 Agreement on mutual visa exemption for diplomatic and service passport holders between the Governments of the Kyrgyz Republic and the Republic of Hungary signed in Bishkek on November 1, 1997.

77 Agreement on mutual visa exemption for diplomatic and service passport holders between the Governments of the Kyrgyz Republic and the Islamic Republic of Pakistan signed in Bishkek on March 8, 2005.

78 Memorandum of Understanding on mutual visa exemption for service passport holders between the Governments of the Kyrgyz Republic and the Islamic Republic of Iran signed in Teheran on December 21, 2003.

79 Agreement on mutual travels of citizens between the Governments of the Kyrgyz Republic and the People's Republic of China signed in Beijing on June 24, 2002.

80 Agreement on mutual travels of citizens between the Governments of the Kyrgyz Republic and Turkmenistan signed in Ashgabat on March 6, 2000.

81 Agreement on mutual visa exemption for diplomatic passport holders between the Governments of the Kyrgyz Republic and the Slovak Republic signed in Bishkek on April 1, 2010.

82 Agreement on mutual visa exemption for diplomatic and service passport holders between the Governments of the Kyrgyz Republic and the Republic of Korea signed in Seoul on November 30, 2010.

83 Agreement on mutual visa exemption for diplomatic and service passport holders between the Governments of the Kyrgyz Republic and the Republic of Indonesia singed in New York on September 23, 2011.

84 Agreement on mutual visa exemption for diplomatic, official and service passport holders between the Governments of the Kyrgyz Republic and the Republic of India singed in Bishkek on July 19, 2013.

the date of the first entry), the State of Qatar (up to 90 days)<sup>85</sup>, the Kingdom of Morocco (up to 90 days within a period of 180 days)<sup>86</sup>, the Italian Republic (up to 90 days within a period of 180 days)<sup>87</sup>, the French Republic (up to 90 days within a period of 180 days)<sup>88</sup>, the Republic of Estonia (up to 90 days).

### **Visa Categories<sup>89</sup>**

- **Diplomatic visas** (issued to foreign nationals holding diplomatic passports and entering the Kyrgyz Republic for official purposes) – type D;
- **Official visas** (issued to foreign nationals holding service passports and entering the Kyrgyz Republic for official purposes) – type O;
- **Business visas** (issued to foreign nationals entering the Kyrgyz Republic for business purposes) – type B;
- **Special work visas** (for journalists and correspondents and for employees of charitable foundations implementing projects in the Kyrgyz Republic) - type SW;
- **Investment visas** (issued to investors or heads of foreign investment companies or their family members (spouses, underage children or dependent parents) intending to engage in investment activities in the Kyrgyz Republic and producing all necessary documents

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85 Agreement on mutual visa exemption for diplomatic and special passport holders between the Governments of the Kyrgyz Republic and the State of Qatar signed in Doha on December 8, 2014.

86 Agreement on mutual visa exemption for diplomatic and service passport holders between the Governments of the Kyrgyz Republic and the Kingdom of Morocco, signed in Rabat on March 30, 2017.

87 Agreement on mutual short-term visa exemption for diplomatic passport holders between the Governments of the Kyrgyz Republic and the Italian Republic signed in Paris on April 15, 2016.

88 Agreement on mutual visa exemption for diplomatic passport holders signed in Bishkek on March 30, 2016.

89 Categories and types of visas defined by the Instruction on the procedure for processing and issuing visas of the Kyrgyz Republic, approved by the Resolution of the Government of the Kyrgyz Republic of March 15, 2017 No. 155 with the latest amendments as of August 19, 2022, No. 466.

confirming the investment of cash or tangible assets equivalent to KGS 10 (ten) million in the industrial or agricultural production, banking, energy, education, healthcare, planning and construction, information and communication technologies)- type I;

- **Tourist visas** (issued to foreign nationals entering the Kyrgyz Republic as tourists) – type TS;
- **Work visas** (Type W1 visa issued to foreign nationals intending to engage in labour or individual entrepreneurial activity in the Kyrgyz Republic and applying for work permits. The work visa allows to stay in the Kyrgyz Republic for up to 60 days without the right to engage in labour or individual entrepreneurial activity. Type W1 visa, issued by the consular department of the Ministry of Foreign Affairs of the Kyrgyz Republic and the plenipotentiary representative office of the MFA in the Kyrgyz Republic to applicants holding work permits and valid for the term of the work permit, but not more than 1 year. Type W2 visa, issued to applicants exempt from work permit requirements under the Kyrgyz external migration law and valid for up to 60 days. Type W2 visa, issued by the consular department of the Ministry of Foreign Affairs of the Kyrgyz Republic and the plenipotentiary representative office of the MFA in the Kyrgyz Republic or foreign institutions of the Kyrgyz Republic on the basis of the migration or accreditation agency's certificate (for reporters and correspondents) and valid for not more than 1 year) - type W1 and W2);
- **Study visas** (issued to foreign nationals entering the Kyrgyz Republic for study) – type S;
- **Special Meiman (guest) visas** (issued to applicants not eligible to engage in labour, business or any other for-profit activity in the Kyrgyz Republic traveling for private purposes, such as visiting friends, receiving medical services, etc.) – type SG;
- **Tuugandar** (relatives) visas (issued to applications for the term of up to 1 year for the purposes of visiting close relatives or reuniting with family members. Where necessary, the person recognized as a refugee confirmed by documentary evidence may be issued

single entry relatives visa in consultation with the national security authorities) – type RL;

- **Meken** (fatherland) visas (issued to ethnic Kyrgyz and persons born in the Kyrgyz Republic or Kyrgyz SSR for the purposes of visiting or repatriating to the Kyrgyz Republic and valid for the term of up to one year, with the possibility of obtaining Kairylman<sup>90</sup> (repatriate) status) – type M;
- **Mountain tourism visas** (issued to applicants intending to visit the Kyrgyz Republic for mountain tourism (alpinism, snowboarding, trekking, rafting, mountain biking, heli-skiing, rock climbing, ice climbing, freeriding, skiing and other types of mountain tourism)) – type MT;
- **Religious visas** (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) – type R;
- **Foreign family member visas** (issued to family members (spouses, underage children or dependent parents) of foreign nationals holding official (type O), investment (type I), work (types W1 and W2), study (type S) visas, and residence permits or repatriate status) – type F;
- **Transit visas** (issued to foreign nationals transiting through the Kyrgyz Republic to any third countries) – type TR;
- **Driver visas** (issued to foreign nationals entering the Kyrgyz Republic by truck for providing international cargo transportation services) – type T;
- **Leave visas** (issued to applicants for exiting the Kyrgyz Republic for a period of up to 10 days, in cases specified in the Instruction on the procedure for processing and issuing visas of the Kyrgyz Republic) – type L;

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<sup>90</sup> Kairylman means an ethnic Kyrgyz (person of Kyrgyz origin) who is a foreign citizen or stateless person, voluntarily moving to the Kyrgyz Republic and having the repatriate status.

- **Digital nomad visas** (issued to foreign nationals or stateless persons engaged in IT and software engineering – type DN).

Visas may be single-entry or multiple. A foreign national receiving a visa shall pay a consular fee in the amount set by the Cabinet of Ministers of the Kyrgyz Republic.<sup>91</sup>

Since March 15, 2017, it is possible to apply for electronic visa (E-visa)<sup>92</sup> through the online visa application portal on the official website of the Unified Recordkeeping System for External Migration (URSEM). The special readable code contains information about e-visa, its category, validity and multiplicity, and the applicant who receives an electronic visa, may, where necessary, print it on A-4 white paper sheet. Consular fees for e-visas are to be paid by bank cards.

Upon arrival at the international checkpoint, a holder of an electronic visa must produce a travel document for which the electronic visa was issued to border personnel who check e-visa validity through the URSEM.

Visa processing, issuance and extension period is not more than 7 and not less than 5 business days from the date of receiving duly executed documents. The list of documents required for visas of the Kyrgyz Republic is determined by the Instruction on the procedure for processing and issuing visas of the Kyrgyz Republic.

### **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.

91 Resolution on consular fees No. 839 of the Government of the Kyrgyz Republic dated December 18, 2012 as amended by Resolutions of the Cabinet of Ministers No.326 of December 23, 2021 and No. 579 of October 19, 2022.

92 An electronic visa is a documentary proof equivalent to visa, issued by the CSD to a foreign national or stateless person online, including through the Internet, having a special machine-readable code, and permitting to enter into, stay in, exit from and transit through the Kyrgyz Republic.

Under Kyrgyz law<sup>93</sup>, foreign nationals or stateless persons residing in the Kyrgyz Republic for not less than 6 months may file an application for residence permit in prescribed form with the Department of Registration of Population under the State Registration Service under the Ministry of Justice of the Kyrgyz Republic (the “Department”) or its local offices closest to the place of residence.

### **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 review period for temporary residence permits is generally 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 Cabinet of Ministers 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

93 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 November 16, 2022, No.627).

terminated in accordance with law;

- Foreign nationals or stateless persons permanently residing in the Kyrgyz Republic upon the attainment of 18 years of age.

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 review period for permanent residence permits is 1 year from the date of filing the application.

The permanent residence permits are given out in the Department or its local offices.

Upon receipt of the residence permit, foreign nationals or stateless persons must within 5 business days file for registration with the local offices of the Department closest to the place of temporary or permanent residence.

### Digital Nomad

In September 2022, the Cabinet of Ministers of the Kyrgyz Republic initiated the pilot project on awarding the Digital Nomad status to foreign nationals.<sup>94</sup> The project aims to create a favourable environment for modern creative people named "Digital Nomads", to promote innovative projects and high-tech sectors of the economy, to attract highly qualified foreign IT and creative industry professionals to the Kyrgyz Republic. The project will continue until December 31, 2023.

The Digital Nomad status allows a foreign national to enter stay in the Kyrgyz Republic without a visa, registration and work permits, and contains information about the foreign national's personal identification

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<sup>94</sup> The Cabinet of Ministers Resolution No. 464 "On Pilot Project on Assigning the Digital Nomad Status to Foreign Nationals", August 18, 2022.

number (PIN).

Applicants for the Digital Nomad status must be the nationals of Azerbaijan, Russia, Moldova, Kazakhstan, Armenia, Belarus, operating in the following areas:

- Development of software, analysis, design and programming of information systems and software products, analysis of information needs and problems of users;
- Design and development, supply and documenting of software, making changes to software as per requests from the user;
- Export of information technologies, information systems and software;
- Media art, including digital art, creation of virtual, augmented and mixed reality, 3D design;
- Animation, graphic design, multimedia design;
- Programming, development of IT products, robotics and artificial intelligence;
- Creation of computer and mobile games, e-sports.

### Registration Procedure

The list of foreign nationals and stateless persons exempt from registration at the place of stay, foreign affairs authority, public registration authority, or hotels and the period of exemption are approved by the Cabinet of Ministers of the Kyrgyz Republic.<sup>95</sup> Non-exempt foreign nationals and stateless persons<sup>96</sup> must register within five business days from the moment of crossing the state border of the Kyrgyz Republic for the period and in the manner approved by the Cabinet of Ministers of the

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<sup>95</sup> Government Resolution approving the procedure for registration of foreign nationals and stateless persons in the Kyrgyz Republic No. 689, December 19, 2016.

<sup>96</sup> List of exempt foreign nationals and stateless persons and exemption period attached as Annex 1 to the Resolution of the Government of the Kyrgyz Republic "On issues of registration of foreign nationals and stateless persons in the Kyrgyz Republic" dated December 19, 2016 No. 689.

Kyrgyz Republic<sup>97</sup>. The renewal of registration of non-exempt foreign nationals must be made after the extension of visa. In such case, foreign nationals and stateless persons must apply, within one working day from the date of visa extension, to the competent authority for registration of foreign nationals.

When registering foreign nationals and stateless persons, employees of the competent authority for registration of population must accept documents for assigning a personal identification number to foreign citizens and stateless persons.

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>98</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>99</sup>

<sup>97</sup> Procedure for registration of foreign nationals and stateless persons in the Kyrgyz Republic approved by Government Resolution No. 689, December 19, 2016 (with the latest amendments as of October 8, 2021, No.203).

<sup>98</sup> The Law of the Kyrgyz Republic "On Legal Status of Foreign Nationals in the Kyrgyz Republic" dated December 14, 1993 No. 1296-XII (with the latest amendments as of July 24, 2020, No.89).

<sup>99</sup> Treaty on Eurasian Economic Union dated May 29, 2014 (with the latest amendments as of March 31, 2022).

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.

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 authorities 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.

The latest amendments to the Law of the Kyrgyz Republic "On Legal Status of Foreign Nationals in the Kyrgyz Republic" introduced a new concept of "foreign compatriot", which applies to foreign nationals who

previously were Kyrgyz nationals and received the status of foreign compatriots.

The status of foreign compatriots can also be assigned to the following persons:

- foreign nationals who are children or grandchildren of a foreign national who previously was a Kyrgyz national, regardless of their initial Kyrgyz nationality;
- foreign nationals who are children or grandchildren of Kyrgyz nationals, regardless of their initial Kyrgyz nationality;
- foreign nationals born in the Kirghiz SSR, as well as their children and grandchildren.

The status of foreign compatriots cannot be assigned to nationals of the states bordering on the Kyrgyz Republic.

Foreign compatriots are entitled to:

- enter, exit, transit, move and stay in the territory of the Kyrgyz Republic without a visa under one of the valid documents, in the presence of the foreign compatriot document;
- permanently reside in the Kyrgyz Republic without a residence permit. A foreign compatriot is equated to a foreign national permanently residing in the Kyrgyz Republic, regardless of the length of stay in the Kyrgyz Republic;
- work in enterprises, institutions and organizations or engage in other employment on the grounds and in the manner prescribed for Kyrgyz nationals without a work visa and work permit issued by the competent authorities;
- pay for commercial health and education services on the same terms as Kyrgyz nationals under the laws of the Kyrgyz Republic.

A foreign compatriot may not hold state and municipal posts of the Kyrgyz Republic.

## 4. FORMS OF BUSINESS

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

Branches and representative offices of foreign companies are not regarded as organizations of the Kyrgyz Republic. They are not regarded as independent participants of civil turnover and may enter into civil, labour, tax and other legal relations only on behalf of the founding organization. Liability for activities of the branch or representative office is borne by the founding organization. Branches and representative offices are endowed with the property of their founders, and act on the basis of the approved bylaws. 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 foreign legal entity.

Under Kyrgyz law, branches and representative offices may, on behalf of the founding organization, do the following:

- open bank accounts and execute payments in any currency;
- hire local employees;
- hire foreign employees and obtain relevant work permits for them;
- 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
- acquire movable or immovable property into ownership or for use;
- exercise other rights provided by the legislation of the Kyrgyz Republic.

Kyrgyz law 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. Also, a branch and representative office may not obtain the license to engage in certain types of activities or provide certain types of services.

#### **State Registration of Branches and Representative Offices**

Branches and representative offices located within the Kyrgyz Republic are subject to mandatory state registration.

On April 3, 2023, there was enacted the KR Law of February 28, 2023 No. 44 "On the Amendment of Certain Legislative Acts of the Kyrgyz Republic on Registration (Re-Registration) of Legal Entities and the Repeal of the KR Law "On State Registration of Legal Entities, Branches (Representative Offices)" of February 20, 2009 No.57". as a substitute for the repealed Law, the Ministry of Justice of the Kyrgyz Republic released for public comment a draft resolution of the Cabinet of Ministers of the Kyrgyz Republic proposing the Regulation on the Procedure for Registration of Legal Entities, Branches and Representative Offices by the Bodies of the Ministry of Justice", but it is not adopted yet.

The procedure for registration of branches (representative offices) described in the repealed law does not differ much from the one set out in the Regulation on the Procedure for Registration of Legal Entities, Branches and Representative Offices by the Bodies of the Ministry of Justice of the Kyrgyz Republic proposed by the draft resolution of the Cabinet of Ministers. State registration of branches and representative offices of foreign legal entities is carried out by the Ministry of Justice of the Kyrgyz Republic or its local offices. For the purposes of state registration of a branch or representative office, an applicant must submit the following documents<sup>100</sup>:

100 Article 10 and 15 of the Law of the Kyrgyz Republic "On State Registration of Legal Entities, Branches (Representative Offices)" dated February 20, 2009 No. 57 (with the latest amendments as of December 10, 2021, No. 150). The above Law is repealed from April 3, 2023 under the Law of February 28, 2023 No. 44 on the Amendment of Certain Legislative Acts of the Kyrgyz Republic on Registration (Re-Registration) of Legal Entities and the Repeal of the Law of the Kyrgyz Republic "On State Registration of Legal Entities, Branches (Representative Offices)", however, a substitute for the repealed law has not yet been adopted.

1. The standard application form for registration;
2. The resolution of the authorized body of the legal entity to establish the branch or representative office;
3. A copy of the certificate of state registration (re-registration) of the legal entity (for branches or representative offices established by legal entities registered under the legislation of the Kyrgyz Republic);
4. A legalized/apostilled<sup>101</sup> excerpt from the trade register or other proof that the foreign legal entity is in good standing under the laws of its country (for branches or representative offices established by foreign legal entities);
5. 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;
6. A power of attorney for a representative to represent a legal entity before the Ministry of Justice of the Kyrgyz Republic and its local offices;
7. A copy of passport (or other identify document recognized by the legislation of the Kyrgyz Republic) of an individual acting as a representative of a legal entity.

For the establishment of a branch or representative office of a foreign or local bank or other financial lending institution, a written consent of the National Bank of the Kyrgyz Republic or its local office 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;

<sup>101</sup> Document legalization is carried out by Kyrgyz consular offices to respective foreign states or, where no such consular offices exist, by the consular service of the MFA of the Kyrgyz Republic upon prior legalization by the accredited diplomatic mission or consular office of the respective foreign state.

Under Kyrgyz Law dated November 16, 2009 No.296, the Kyrgyz Republic has acceded to the Hague Convention abolishing the requirement of legalization for foreign public documents, October 5, 1961.

- 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>102</sup>

1. The standard application form for registration;
2. The decision of the authorized body of a legal entity or court to liquidate the branch or representative office;
3. The certificate of state registration (re-registration) of the branch or representative office;
4. The certificate of surrender of seals and stamps of the branch or representative office to the internal affairs authority;
5. The proof of payment of the registration fee.

The branches or representative offices of foreign legal entities must additionally submit the following documents:

1. The certificate of no outstanding tax and social security liabilities.

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

State 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 local offices.

### 4.2. Legal Entities

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

<sup>102</sup> Article 17 of the Law: "On State Registration of Legal Entities, Branches (Representative Offices)" dated February 20, 2009 No. 57 (with the latest amendments as of December 10, 2021, No.150), repealed from April 3, 2023.

- 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>103</sup> the Law of the Kyrgyz Republic "On Business Partnerships and Companies", and the Law of the Kyrgyz Republic "On Joint Stock Companies".<sup>104</sup>

### 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 members of an 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 an LLC are not subject to detailed legislative regulation, therefore, management and decision-making in an LLC are more flexible.

The minimum charter capital of an LLC is KGS 1 (approximately USD 0.012 as of March 2023).

It must be noted that under the laws of the Kyrgyz Republic,<sup>105</sup> a single-member LLC may not be owned by another single-member business entity.

The number of members of an LLC may not exceed 30; otherwise, the LLC

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<sup>103</sup> Civil Code of the Kyrgyz Republic dated May 8, 1996 No. 15, Part I (with the latest amendments as of August 5, 2022, No.81) and Civil Code of the Kyrgyz Republic dated January 5, 1998, No.1, Part II (with the latest amendments as of February 28, 2023, No.44) and Civil Code of the Kyrgyz Republic of January 5, 1998 No. 1, Part II (with the latest amendments as of September 15, 2021, No.120).

<sup>104</sup> The Law of the Kyrgyz Republic on Business Partnerships and Companies of November 15, 1996 No. 60 (with the latest amendments as of March 29, 2019) and the Law of the Kyrgyz Republic "On Joint Stock Companies" dated March 27, 2003 No. 64 (with the latest amendments as of February 16, 2023 No.33).

<sup>105</sup> Article 128 of the Civil Code of the Kyrgyz Republic.

must be reorganized into a joint stock company within 1 year. Should an 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>106</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 1,153 as of March 2023). As of the date of founding a joint stock company, 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

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<sup>106</sup> Article 143 of the Civil Code of the Kyrgyz Republic.

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.

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. In exceptional cases connected with the introduction of a state of emergency, an emergency situation and/or force majeure circumstances, a different date of publication of annual report on financial and business performance of the company may be set by decision of the Cabinet of Ministers of the Kyrgyz Republic.

### **4.3. State 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 local offices.

On April 3, 2023, there was enacted the KR Law of February 28, 2023 No. 44 on the Amendment of Certain Legislative Acts of the Kyrgyz Republic on Registration (Re-Registration) of Legal Entities and the Repeal of the Law of the Kyrgyz Republic "On State Registration of Legal Entities, Branches (Representative Offices)" of February 20, 2009 No.57. As a substitute for the repealed Law, the Ministry of Justice of the Kyrgyz Republic released for public comment a draft resolution of the Cabinet of Ministers of the Kyrgyz Republic proposing the Regulation on the Procedure for Registration of Legal Entities, Branches and Representative Offices", but it is not adopted yet.

The procedure for registration of branches (representative offices) described in the repealed law does not differ much from the procedure proposed by the draft resolution of the Cabinet of Ministers.

State 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 (statutory period) for regular fee, or 1 business day, 6 hours or 3 hours for extra fee, from the date of filing the necessary documents.<sup>107</sup>

To be registered, a legal entity must submit the following documents:<sup>108</sup>

1. The application for registration in prescribed form;
2. The decision of the founder(s) to establish a legal entity;
3. If a legal entity is the founder of another legal entity, a copy of the certificate of state (re)registration;
4. If a foreign legal entity is a founder of another legal entity, a legalized/ apostilled excerpt from the trade register or other proof that the foreign legal entity is in good standing under the laws of its country.
5. 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;
6. A power of attorney for a representative to represent the established

107 State registration of financial institutions, non-commercial organizations, as well as branches or representative offices of financial institutions, foreign and international organizations, must be completed within 10 calendar days (statutory period) or 3 business days or 6 hours (for extra fee) from the date of submitting necessary documents to the registering authority.

108 Articles 10 and 11 of the Law "On State Registration of Legal Entities, Branches (Representative Offices)" of February 20, 2009, No. 57 (with the latest amendments as of December 10, 2021, No.150. The above Law is repealed from April 3, 2023 under the Law of February 28, 2023 No. 44 on the Amendment of Certain Legislative Acts of the Kyrgyz Republic on Registration (Re-Registration) of Legal Entities and the Repeal of the Law of the Kyrgyz Republic "On State Registration of Legal Entities, Branches (Representative Offices)", however, a substitute for the repealed law has not yet been adopted.).

organization before the Ministry of Justice of the Kyrgyz Republic and its local offices;

7. A copy of passport (or other identity document recognized as such by the legislation of the Kyrgyz Republic) of an individual acting as a representative.

For the state registration of banks and other financial institutions a written consent of the National Bank or its local offices is required.

For the state registration of a non-profit organization, the applicant must additionally submit to the registering authority:

- The charter in two copies, signed by the chief executive of a non-profit organization;
- The list of members of governing bodies of a non-profit organization stating their full name, year of birth, and elective position;
- The list of founders of a non-profit organization or citizen-initiators (for homeowner partnerships) stating their full name, year of birth, and address.

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

- 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.

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 reorganized legal entity in respect of all its creditors and debtors, including the obligations disputed by the parties. 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 for state registration of the newly established legal entities.

In the case of reorganization of a legal entity, its founders (shareholders) or body adopting a decision to reorganize the legal entity must notify the creditors of the reorganized entity 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.

Once the authorized body of the legal entity or the court makes a decision to liquidate the legal entity and to elect (appoint) the liquidation committee (liquidator), the latter must notify the registration authority to this effect in writing within 3 business days enclosing a copy of the

aforesaid decision.<sup>109</sup> The notice must indicate the procedure and period for filing the creditors' claims. At the same time, the period for filing the creditors' claims may not be less than 2 months from the date of the public announcement of liquidation.

The Ministry of Justice of the Kyrgyz Republic or its territorial subdivisions must, within 7 business days from the date of receipt of the liquidation notice, make a relevant entry in the state register and notify the Tax Service, Customs Service, Statistical Committee and Social Fund authorities to this effect.

For state registration of its termination, the legal entity must submit to the Ministry of Justice of the Kyrgyz Republic or its local offices the following documents:

1. The standard application form for termination of registration;
2. 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);
3. The certificate of state registration (re-registration) of a legal entity;
4. The certificate of surrender of seals and stamps (if any) to the internal affairs authority;
5. The decision to approve the liquidation balance sheet;
6. The certificate of repositioning the documents of the liquidated legal entity with the state archive fund;
7. The proof of payment of the registration fee;
8. A power of attorney for a representative to represent the liquidated legal entity before the Ministry of Justice of the Kyrgyz Republic and its local offices;
9. A copy of passport (or other identity document recognized as such by the legislation of the Kyrgyz Republic) of an individual acting as a representative.

<sup>109</sup> Article 13 of the Law: "On State Registration of Legal Entities, Branches (Representative Offices)" of February 20, 2009 No. 57 (with the latest amendments as of December 10, 2021, No.150).

For termination of state registration, financial lending institutions and non-commercial organizations must also provide their charters.

#### **4.6. Online registration of legal entities**

On February 26, 2019, the Government of the Kyrgyz Republic approved the Interim Procedure<sup>110</sup> for online registration of legal entities via the Internet information and communication system.

For online registration of legal entities, an applicant must:

1. have an ID card (a 2017 passport of citizen of the Kyrgyz Republic);
2. login to the government e-services portal using the card reader (smart card) allowing to authenticate the identity of the applicant or other person on whose behalf the information must be signed.

Registration documents must be filed with the Ministry of Justice as electronic images.

#### **4.7. Doing Business without Forming a Legal Entity**

Under Kyrgyz law<sup>111</sup>, a business can be organized as a legal entity or its branch or representative office, or as a sole proprietorship, which is a non-corporate form of doing business by an individual. 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.

<sup>110</sup> Resolution of the Government of the Kyrgyz Republic dated February 26, 2019 No. 94 "On conducting a pilot project for online state registration of legal entities".

<sup>111</sup> Article 58 of the Civil Code of the Kyrgyz Republic and Regulation on procedure of tax registration of taxpayers in the Kyrgyz Republic approved by KR Government Resolution dated March 4, 2022 No. 106 (with the latest amendments as of December 16, 2022, No.705).

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.

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

A sole proprietor whose total revenue per year does not exceed the VAT registration threshold (i.e., a small business entity) must keep records and accounts according to simplified rules established by the Cabinet of Ministers of the Kyrgyz Republic.

Individuals may engage in entrepreneurial activities without the need to register as a sole proprietor, provided that they operate on the basis of a patent, if the respective business activities are included in the list of entrepreneurial activities.

It should be noted that the purchase of the appropriate patent allows engaging in entrepreneurship or self-employment as per the lists approved by the Cabinet of Ministers. An individual engaged in scientific, pedagogical (teaching), creative and other activities on the basis of a patent without hiring employees (independently) is deemed a person engaged in self-employment. However, an individual engaged in self-employment is not deemed a sole proprietor under the Tax Code.

The list of entrepreneurship and self-employment activities is determined by the Cabinet of Ministers. Set out below is an overview of the patents giving the right to engage in entrepreneurship activity.

A patent (either in hard copy or electronic form) certifies:

1. the right of the taxpayer to engage in the activity specified in the

patent;

2. the payment of taxes applicable to the activity specified in the patent;
3. the earning of income during the tax period covered by the patent.

Thus, a sole proprietor operating on the basis of a patent is not required to report to tax authorities<sup>112</sup> and only needs to purchase a patent and then keep extending its validity period. The patent validity period varies from 15<sup>113</sup> to 180 days. A patent is valid only in the territory where it was issued (district, city without district division, or Bishkek city) except the patent for certain types of activities determined by the competent tax authority. It is prohibited to transfer the patent or a copy thereof to another person for the purposes of engaging in entrepreneurship activities. The patent for engaging in certain types of activities may not replace the licenses and other special permits required by Kyrgyz law.

The patent-based tax regime does not apply to:

1. individuals whose total revenue for the last 12 months exceeds KGS 8,000,000;
2. individuals who import goods, except those working in sewing and textile industry.

In cases where the total revenue exceeds the above threshold, the taxpayer must apply to the tax authority for shifting to a new tax regime. Where the sole proprietor is engaged in import of goods, the general tax regime will apply for the respective period.

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.

<sup>112</sup> At the same time, in case of the patent-based tax, taxpayers are not exempt from filing a unified tax return indicating the actual income from their activities as required by the Tax Code of the Kyrgyz Republic though without mandatory confirmation and verification of the tax amount paid. The unified tax return must be filed along with the copies of patents.

<sup>113</sup> Article 417 of the Tax Code of the KR of January 18, 2022, No.3

## 4.8. Free Economic Zones

Free economic zones (FEZs) are areas with special legal regime offering incentives to companies engaged in foreign trade and business activities<sup>114</sup>.

FEZ residents enjoy the following incentives and benefits:

- Partial exemption from all taxes, duties, fees, and charges, for the duration of residence in FEZ;
- Distribution of 0.1% to 2% of proceeds from sale of goods and services over a year to the General Directorate of FEZ for offering tax and other incentives on the premises of FEZ;<sup>115</sup>
- Simplified entry and exit requirements for foreign workers;
- Simplified customs procedures; and
- Direct access to critical infrastructure, including telecommunications, water supply, power, and transport, on the premises of FEZ.

FEZ residents may not engage in:

- 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, as well as tobacco products manufactured by FEZ residents before 2000;
- production, repair and sale of weapons and ammunition, production and sale of explosives used in production of weapons;
- production, processing, storage, deactivation, and 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.

<sup>114</sup> The Law of the Kyrgyz Republic "On Free Economic Zones in the Kyrgyz Republic" dated January 11, 2014, No.6 (with the latest amendments as of February 28, 2023 No. 44).

<sup>115</sup> For more detail on FEZ taxation refer to Section 6.11.

The Cabinet of Ministers of the Kyrgyz Republic has the right to determine other types of activities prohibited in FEZ.

State registration (re-registration) and termination of registration of FEZ residents are vested in the Ministry of Justice of the Kyrgyz Republic and its local offices.

Companies willing to obtain the FEZ resident status must submit an application to the General Directorate of FEZ containing the following information:

1. proposed activity corresponding to FEZ type;
2. area of land required for proposed activity;
3. proposed capital investments including those to be made during the year from the date of executing an agreement on conditions of residence in FEZ.

The procedure for granting the FEZ resident status is established by the General Directorate of FEZ.

A company is considered a FEZ resident from the date of making a relevant entry in the register of FEZ residents. The General Directorate of FEZ must enter the registration data in the register of FEZ residents within three working days from the date of signing the agreement on conditions of residence FEZ and issue a certificate of registration as a FEZ resident.

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 the Leilek FEZ.<sup>116</sup>

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<sup>116</sup> Resolution of the Government of the Kyrgyz Republic No. 431 of August 1, 2014.

## 5. LICENSES AND PERMITS

The basic regulatory act governing the matters related to the licensing of certain types of activities, actions and operations is the Law of the Kyrgyz Republic "On Licensing and Permits System in the Kyrgyz Republic" (the "LPS Law").<sup>117</sup>

The licensing law distinguishes two types of documents allowing their holders to engage in specified activities or actions/operations:

- **license** certifying the right of its holder to engage in licensable activity; and
- **permit** confirming the right of its holder to engage in certain actions in the course of its activity.

The LPS Law establishes a conclusive list of licenses and permits. Activities (or actions) that are not included in the list established by the LPS Law are carried out on general basis without the need to obtain licenses or permits.

Licenses and permits are issued on equal grounds and conditions to all individuals and legal entities (including foreign ones), regardless of the form of ownership.

### Licensing requirements specific to particular activities

Licensing procedure and requirements specific to particular activities (actions) are governed by applicable law to the extent not inconsistent with the LPS Law.

Licensing procedure and requirements specific to banks, financial/lending institutions and other entities regulated by the National Bank of the Kyrgyz Republic, including the issuance, suspension, termination (revocation, cancelation) of licenses, and licensing control are governed by the Kyrgyz law regulating the National Bank of the Kyrgyz Republic,

<sup>117</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 August 5, 2022).

banks and banking, payment, microfinance, credit bureau and credit union services, residential savings and loan companies, and other entities reporting to the National Bank of the Kyrgyz Republic<sup>118</sup>.

Licensing procedure specific to subsoil use activities, including the issuance, renewal, suspension, termination or transfer of licenses and also licensing requirements and control, licensing fees and charges are governed by the subsoil use law of the Kyrgyz Republic.

Licensing requirements specific to international trade activities are governed by the international trade law of the Kyrgyz Republic and treaties and acts forming the licensing law of the Eurasian Economic Union.

Licensing requirements specific to radio spectrum usage, frequency assignment, including the issuance, renewal, suspension, termination, and revocation of licenses, licensing requirements and control, collection of license fees and charges are governed by the telecommunications law of the Kyrgyz Republic.

Licensing requirements specific to gambling, including the issuance, renewal, suspension, termination, and revocation of licenses, licensing requirements and control, collection of license fees and charges are governed by the gambling law of the Kyrgyz Republic.

Procedure and requirements for the issuance, recognition, renewal, suspension and revocation of civil aviation permits are governed by the aviation law of the Kyrgyz Republic.

Procedure and requirements for the issuance, renewal, suspension, revocation, termination of employment permits for foreign nationals and stateless persons and employment of Kyrgyz nationals abroad, permit requirements, control over collection of charges are governed by the external labour migration law of the Kyrgyz Republic.<sup>119</sup>

<sup>118</sup> For more information on banking regulation refer to Section 9.

<sup>119</sup> For more information on employment of foreign nationals in the Kyrgyz Republic refer to Section 10.

## Types of activities requiring licenses

The LPS Law lists the following types of activities requiring respective licenses:

- 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);
- Pharmaceutical activities;
- Production and sale of veterinary drugs;
- Activities involving work with RG2 microorganisms;
- Activities in the field of electric communication (except internal or private telecommunications networks operators and services);
- Activities in the field of postal communication;
- Activities in the field of data transfer (except internal or private telecommunications networks operators and services);
- Activities in the field of identification and authentication of international mobile equipment identity numbers of mobile and data transmission equipment operated or imported in the Kyrgyz Republic;
- 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 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;
- Residential savings and loan company 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;
- Professional lottery activities;
- Gambling activities;
- Transportation (including trans-boundary transportation), storage, use, burial of radioactive materials, substances and sources of ionizing radiation, including toxic and 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 securities market;
- Securities broker services;
- Securities registrar services;
- Securities depository services;
- Securities dealer services;
- Investment fund activities;
- Investment trust activities;
- 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 organizations carrying out pre-school, primary, basic and secondary general and out-of-school education programs);
- Import, export of arms and ammunition, as well as other products of military purpose according to the list approved by the Cabinet of Ministers 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 Cabinet of Ministers of the Kyrgyz Republic;

- Import and export of goods subject to temporary unilateral licensing;
- Virtual asset service providers.

Also, licensing is compulsory for the following activities related to the use of limited public resources:

- Using radio frequency spectrum (except individuals and (or) legal entities using the radio-frequency spectrum for non-commercial production purposes);
- 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 as set forth in the subsoil use law;
- 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 disposal of highly toxic substances.

### **Types of operations requiring permits**

Permits are required for the following operations:

- 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 Cabinet of Ministers 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;
  - Transportation of dangerous goods; import, export and transportation of radioactive materials and substances in the territory of the Kyrgyz Republic;
  - Storage of explosives materials used for industrial purpose;
  - Storage of pyrotechnic products;
  - Import of pyrotechnic products to the Kyrgyz Republic;
  - Purchase of explosives materials;
  - 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;
  - Identification of controlled products, 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 Cabinet of Ministers of the Kyrgyz Republic;

- Development, production, sale, purchase, storage, transportation of special technical means used for surreptitious obtaining of information;
- Hosting TV and radio channels on analog and(or) digital broadcasting platforms, regardless of the technology used;
- Public or promotional lottery;
- Aircraft ground handling;
- Special flight operation;
- On-board radio station operation.

### **License (permit) issuing authorities**

Licenses (permits) are issued by the competent authorities (licensors) authorized by the Cabinet of Ministers of the Kyrgyz Republic.

Licenses issued in other countries are recognized as valid in the Kyrgyz Republic under mutual or automatic recognition agreements or on a unilateral basis, provided that such licenses are included in the list approved by the Cabinet of Ministers of the Kyrgyz Republic.

### **License (Permit) Issuance Procedure**

Licensing procedure specific to certain activities (operations), including licensing requirements and a list of application documents, are established by the Cabinet of Ministers of the Kyrgyz Republic.

Competent authorities may not demand from the applicant any documents other than those provided by the LPS Law and other laws or regulations of the Kyrgyz Republic to the extent not inconsistent with the LPS Law.

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<sup>120</sup> and other regulatory legal acts.

Among other mandatory deductions are social security contributions to the Social Fund of the Kyrgyz Republic regulated by the Law "On State Social Security"<sup>121</sup>, the Law "On Tariffs of Social Security Contributions for State Social Security"<sup>122</sup>, 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 on January 18, 2022 with effect from January 1, 2022.

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:

- Property tax

<sup>120</sup> The Tax Code of the Kyrgyz Republic dated January 18, 2022 (with effect from January 1, 2022) (with the latest amendments as of June 30, 202, No.51).

<sup>121</sup> The Law of the Kyrgyz Republic "On State Social Insurance" dated June 17, 1996 No. 20 (with the latest amendments as of November 4, 2022 No. 101).

<sup>122</sup> The Law of the Kyrgyz Republic "On Tariffs of Insurance Contributions for State Social Insurance" dated January 24, 2004, No.8 (with the latest amendments as of November 4, 2022, No. 101).

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 having 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 fixed place of business through which the economic activity of the foreign company is wholly or partly carried on and includes the following:

- a place of management;
- a branch;
- an office;
- a factory;
- a workshop;
- a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- a land plot;
- a building site or construction or installation project or relevant works supervision services (if such site, or project or services last more than 183 calendar days during any 12-month period);
- an 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 during any 12-month period);

- providing services including consulting services by a non-resident through its hired personnel in the Kyrgyz Republic for 183 or more calendar days in a 12-month period);
- engaging in entrepreneurship in the Kyrgyz Republic through a dependent agent;
- selling goods in the Kyrgyz Republic by a foreign organization, including products of processing in the Kyrgyz Republic;
- providing services in electronic form based on the use of a domain name or IP address registered in the Kyrgyz Republic.

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

If a foreign entity operates without creating a permanent establishment in the Kyrgyz Republic, but derives income from the sources located in the Kyrgyz Republic, for taxation purposes, it is treated as a foreign entity not having 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 having a permanent establishment in the Kyrgyz Republic, without deductions at the following rates:

- For dividends, interest income (except interest income derived from securities listed on the Kyrgyz stock exchange in the first and second highest listing categories), and income derived from Islamic financial transactions: 10 %;
- For insurance payments made:
  - under insurance or risk reinsurance contracts (except compulsory insurance contracts): 5%;
  - under compulsory insurance or risk reinsurance contracts: 10%;
- For income from international telecommunication or transportation services between the Kyrgyz Republic and other countries: 5%.

### **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 to foreign entities not having a permanent establishment in the Kyrgyz Republic from sources in the Kyrgyz Republic.

**Profit tax** applies to 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;
- A foreign entity operating without creating 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 reduced by non-taxable income, and expenses deductible under tax law as assessed for the tax period.

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, namely:

- 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 organization and money used as capital investments to develop its own production

base by the decision of the Cabinet of Ministers of the Kyrgyz Republic or local self-government authorities;

- Value of hydroelectric power plants, thermoelectric power plants, 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 engaged in use and operation of the said facilities for their intended purpose;
- Value of fixed assets, social, cultural, housing, communal or household facilities, roads, water supply and sewerage, electric networks and meters, substations, boiler rooms, heating networks, gas networks and meters granted to a specialized organization engaged in use, operation, and maintenance of these facilities for their intended purpose regardless of form of ownership under the commissioning certificate;
- Fee for connection of newly built/rebuilt/redesigned/replanned facilities to engineering networks and/or facilities built but not connected to engineering networks received by a specialized organization regardless of form of ownership;
- Received by non-profit organizations:
  - a. membership and entrance fees;
  - b. humanitarian aid and grants, as well as voluntary donations, 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;
  - d. fee for technical maintenance of multi-apartment houses and servicing buildings and structures;
  - e. fee for irrigation water supplied by water user associations to their members in the framework of the activity stated in the charter;
  - f. fee for religious rites, rituals, ceremonies, pilgrimage services and voluntary donations;

- 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 value of treasury shares (excess over par value);
- Value of additional shares (interests) received by a participant of the organization, distributed among the participants of the organization by the decision of the general meeting, or the difference between the par value of new shares received instead of the original shares and the par value of the original shares of the shareholder upon the distribution of shares (interests) among the participants of the organization in connection with the increase of the authorized capital of this organization, including at the expense of the property of the organization;
- Profit received by the bank under the Sharikah Islamic financing contract;
- Interest and gain in value of securities listed on the stock exchanges in the first and second highest listing categories on the date of sale.

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

- Interest expense;
- Expenses incurred in the process of innovation activity which includes scientific research, development and engineering works; design and survey works; implementation of scientific and technological achievements; implementation of application software packages; implementation of information and communications technologies;
- Reserve for exploration works;
- Cost of fixed assets, intangible assets and inventories;
- Taxes (including the amount of VAT for purchased material resources, not subject to offset, the amount of excise tax not subject to

deduction, the amount of sales tax paid to suppliers on the purchase of goods, works and services, the taxpayer's expenses on VAT accrued on the balance of inventories, fixed assets and intangible assets when the registration for VAT is cancelled, property tax, subsoil use taxes;

- Expenses of the taxpayer carrying out production activities within the technological norms;
- 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 education, training and re-training expenses;
- Business trip expenses;
- Representation expenses;
- Other documented income generation expenses.

Apart from that, the tax legislation sets forth a list of expenses not deductible from the gross annual income, including:

- Expenses related to production, acquisition and installation of fixed assets and other capital expenditures;
- Tax sanctions, penalties and default interests paid to the national budget and to the Social Fund of the Kyrgyz Republic;
- Profit tax paid or payable in the Kyrgyz Republic;
- Profit tax paid or payable in the foreign state;
- Expenses related to deductions to reserves unless otherwise provided in the tax law;
- Excess of expenses incurred during the operation of social facilities as per the list approved by the Cabinet of Ministers over income

- received from operation of such facilities;
- 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;
- Expenses related to purchase, operation or maintenance of any property income from which is not taxable according to the tax law;
- Expenses directly or indirectly related to sale or exchange of property between the taxpayer and his family member or interdependent entity;
- Expenses of the taxpayer with respect to his close relatives and other persons not related to economic activity;
- Expenses related to price differences on sales at preferential prices or tariffs, or at prices below market prices for goods, works, services to employees, except those taxed by the tax agent;
- 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 law;
- Amounts of non-income generating expenses;
- Expenses incurred to generate income not subject to profit tax;
- Per diems paid for the period of being on a business trip in the amount exceeding the limits established by the Cabinet of Ministers, except for the amounts of excess taxed with income tax;
- Expenses for organizing banquets, leisure, entertainment or recreation;
- Expenses of the taxpayer-issuer incurred upon receipt of property as payment for the shares (interests, units) placed by it
- Amount of the excess of the cost of acquisition of virtual assets over the proceeds from their sale.

For taxpayers engaged in extraction and sale of gold ore, concentrate,

alloy and refined gold<sup>123</sup> 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>124</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. For enterprises engaged in activities subject to preferential tax regime under the Tax Code (except mining, mineral processing, and excisable goods manufacturing) the profit tax rate is 0% for the period of up to 5 years with the possibility of renewal for another 5 years. Some entities are exempt from the profit tax (e.g. credit unions, charitable organizations, agricultural producers, agricultural trade and logistics centers, privately owned general educational institutions, etc.). For all other taxpayers, the rate of the profit tax is 10%.

## 6.2. Income Tax

**Payers** of income tax are Kyrgyz citizens, resident non-Kyrgyz citizens having residence permits or repatriate status, resident non-Kyrgyz citizens not having residence permits or repatriate status, 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.

**Income tax** applies to:

Economic activity, except business activity, resulting in income

123 Taxpayers engaged in extraction and sale of gold ore, concentrate, alloy or refined gold pay income tax at rates ranging from 1% to 30% 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 Cabinet of Ministers of the Kyrgyz Republic.

124 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.

generated:

- from a source within and/or outside the Kyrgyz Republic – in respect of Kyrgyz citizens;
- from a source within and/or outside the Kyrgyz Republic – in respect of resident non-Kyrgyz citizens having residence permit or kairylman (repatriate) status;
- from a source within the Kyrgyz Republic – in respect of resident non-Kyrgyz citizens not having residence permit or kairylman (repatriate) status; and
- from a source within the Kyrgyz Republic – in respect of non-resident of the Kyrgyz Republic except non-resident who is the employee of the branch and/or representative office of the domestic organization registered outside the Kyrgyz Republic.

**Tax base** is income estimated as the difference between the gross annual income, received by a taxpayer over the tax period and reduced by non-taxable income, and deductions required by Section VII (Income tax) of the Tax Code, unless otherwise provided therein.

The income tax period is one calendar year,

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

Also, there is a 5% reduced tax rate for the following employees:

1. taxpayers registered and operating in preferential border settlements;
2. taxpayers specified in Article 183.4 of the Tax Code<sup>125</sup>;
3. High Tech Park residents and directorate, except property maintenance and security staff.

125 Tax exemptions within the territory of an administrative-territorial unit having a special status under Kyrgyz law are granted to taxpayers who have tax registration with the tax authorities of an administrative-territorial unit having a special status under Kyrgyz law and carrying out the activities provided in Article 183.1 of the Tax Code, in the territory of that administrative-territorial unit, without the need to conclude an investment agreement referred to in Article 183.2, except their separate subdivisions located outside the territory of the administrative-territorial unit where they are granted exemptions.

### 6.3. Value Added Tax

Value added tax (VAT) is a tax collected and remitted to the government on the partial value of taxable supply, including taxable import. VAT does not apply to the sale of virtual assets.

**Payers** of VAT are taxpayers who pay taxes or whose activities are taxable under general tax regime, entities engaged in taxable import as well as foreign organizations providing services in electronic form without using a domain name or IP address registered in the Kyrgyz Republic, the place of delivery of which is the territory of the Kyrgyz Republic.

Under Kyrgyz tax law, an entity engaged in entrepreneurial activities and paying taxes under the general tax regime is subject to VAT registration as of the date of its tax registration. Foreign organizations providing services in electronic form are subject to tax registration without undergoing state registration by registering through the information resource posted on the open official website of the Tax Service. 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 30 million KGS. For such registration, the taxpayer must file an application within one month from the date of expiration of the period in which it earned more than 30 million soms.

**Taxable supplies.** Under Kyrgyz tax law, a taxable supply is a supply made in the Kyrgyz Republic, except exempt supplies.

The export of the customer's raw materials from the Kyrgyz Republic to another member-state of the Eurasian Economic Union for processing outside the Kyrgyz Republic will be deemed a taxable supply if more than 24 months pass from the date of export of customer's raw materials, but the processed products are not imported into the Kyrgyz Republic.

Taxable supplies, including supplies by foreign organizations providing services in electronic form without using a domain name or IP address

registered in the Kyrgyz Republic, made in the Kyrgyz Republic are subject to 12% VAT, except VAT taxable supplies subject to a zero rate.

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

- Processing of customer's raw materials imported from EEU member states;
- Export of goods, except export of gold and silver alloy and refined gold and silver, metallic ores, concentrates, alloys and refined metals;
- 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;
- Supply of goods, works and services intended for use in production from the Kyrgyz Republic by a non-FEZ resident to a FEZ resident.

**Taxable import.** Taxable import means the import of goods into the territory of the Kyrgyz Republic, except exempt import. Exempt import means:

- the import of foreign goods placed under the customs regime of release for domestic consumption into the EAEU customs territory in the Kyrgyz Republic;
- the import of the EAEU goods placed under the customs procedure of reimport:
  - into the EAEU customs territory in the Kyrgyz Republic;
  - into the territory of the Kyrgyz Republic from the territory of free economic zones and free warehouses of the Kyrgyz Republic;
- the import of the EAEU goods into the territory of the Kyrgyz Republic from the territory of another EAEU member state if they are:
  - acquired for ownership;

- received for use under the financial lease agreement;
- products of processing of customer supplied raw materials;
- the import of foreign goods into the territory of the Kyrgyz Republic from the territories of free economic zones, free warehouses and customs warehouses of the Kyrgyz Republic;
- the import of customer supplied raw materials into the territory of the Kyrgyz Republic from the territory of another EAEU member state for processing in the territory of the Kyrgyz Republic, if more than 24 months have passed since the date of import of raw materials and if the processed products have not been exported outside the Kyrgyz Republic.

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.

Taxable import does not include import of goods from an EEU member state to the Kyrgyz Republic in connection with their transfer:

- a. from a taxpayer of an EEU member state to its branch or representative office in the Kyrgyz Republic;
- b. from a branch or representative office in an EEU member state to a Kyrgyz taxpayer of which it is a branch or representative office.

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

- Sale and lease of land plots;
- Sale of residential buildings and premises classified as housing in accordance with the documents of the state registration authority, or lease of residential premises, except lease of inns, boarding houses, resort and health centers;

- Sale of an enterprise by one VAT taxpayer to another VAT taxpayer;
- Supply by an agricultural producer of its own agricultural products and processed products;
- Supply of agricultural products and processed products by the agricultural cooperative received from agricultural producers who are members of the cooperative;
- Supply of goods, works and services by the agricultural cooperative to the members of this cooperative;
- Supply by an agricultural trade and logistics center of agricultural products and processed products received from agricultural producers and agricultural cooperatives;
- Supply of works involving the use of agricultural machinery, agricultural machinery maintenance and repair services, or agricultural machinery spare parts by a machine tractor station to an agricultural producer or agricultural cooperative;
- Supply of feed for poultry and fish produced by the taxpayer to an agricultural producer engaged in poultry and fish breeding activities;
- Supply of public utilities to a physical person for household purposes;
- Supply of prosthetic and orthopaedic items, supply of specialized goods for handicapped persons including their repair and supply of medicines according, including vaccines and veterinary medicines, as well as medical devices included in the lists determined by the Cabinet of Ministers of the Kyrgyz Republic;
- Supply by a specialized organization of services related to connection to engineering networks of newly built/rebuilt/redesigned/replanned facilities and/or facilities built but not connected to engineering networks;
- Supply of financial services;
- Supply of property including land plots received by banks from their borrowers in repayment of debt to the extent of the amount of the debt under a loan contract or Islamic financial contract;
- Supply by banks of residential structures classified as housing in

accordance with the documents of the state registration authority, received as repayment of debt of bank borrowers, including under Islamic financial contracts;

- Supply by banks of refined standard and dimensional gold, silver, platinum and palladium bars and coins;
- Supply of goods by the bank under murabahah, salam and istisna/ parallel istisna Islamic financing contracts;
- Transfer and return of goods between the customer and the bank under sharikah/ musharakah Islamic financing contracts;
- Supply of goods by banks for transfer as fixed assets under ijarah muntahiya bittamlik and murabahah Islamic financing contracts;
- Supply of goods by the supplier in the case when the supply is made under the finance lease contract, muntahiya bittamlik or murabahah Islamic financing contract, intended for use as fixed assets under the finance lease terms, as well as under the murabahah Islamic financing contract, if the customer is a VAT taxpayer;
- Supply of insurance, coinsurance and reinsurance services as well as the related broker and agent 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;
- 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 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 services of warranty repair of fixed assets imported into the Kyrgyz Republic from the EEU member states, including their restoration or replacement of component parts;

- Supply of goods in the territory of the customs warehouse;
- Supply of state property through privatization;
- Supply of means of identification, as well as services involving the issuance and generation of product marking codes;
- Supplies by charitable organizations for charitable purposes in accordance with Kyrgyz law on sponsorship and charity;
- Supply of preschool education (private kindergarten) services;
- Supply of services by private general education organizations;
- Supply of own goods, works and services by correctional institutions and enterprises of the penal system of the Ministry of Justice of the Kyrgyz Republic;
- Supply of goods by entities carrying out their activities on the territory of correctional institutions of the penal system, provided that the number of employed convicts serving their sentence in correctional institutions is not less than 60% of the total number of employees in these enterprises;
- Supply of technologies, equipment and its components that meet the energy and resource efficiency requirements determined by the Cabinet of Ministers;
- Supply of hemodialysis services by private health organizations to patients with end-stage kidney disease;
- Supplies related to social security and protection of disabled citizens, low-income families, orphanages and nursing homes, and supplies related to education, medicine, science, culture, and sport and made by a non-commercial organization which makes no other supplies during 12 consecutive calendar months;
- Gratuitous transfer of socio-cultural, health and fitness, housing and household utilities facilities, roads, power networks, substations, boiling rooms, heating networks, gas networks, hydroelectric 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 Cabinet of Ministers of the Kyrgyz Republic or local authorities;
  - Gratuitous transfer of public utility networks to a specialized organization under a certificate of commissioning;
  - Supply of mineral fertilizers, chemical plant protection means, animal vaccines and medications according to the list established by the Cabinet of Ministers of the Kyrgyz Republic;
  - Supply of vehicles powered by electricity produced at the enterprises of the Kyrgyz Republic;
  - Supply to a local agricultural producer of agricultural machinery manufactured at Kyrgyz enterprises according to the list approved by the Cabinet of Ministers of the Kyrgyz Republic;
  - Supply and export of metallic ores, concentrates, alloys and refined metals;
  - 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 Cabinet of Ministers of the Kyrgyz Republic during the period specified in the public-private partnership agreement;
  - Supply of jet fuel by a refuelling organization as on-board supplies for the refuelling of aircraft engaged in international air services;
  - Supply of goods or works under a social contract;
  - Transfer of property to the share capital of the organization, as well as the return by the organization of the amount of contribution to the participant in the form of property;
  - Transfer and return of property between the partner and the organization under the Sharikah Islamic financing contract;

- Provision of services of religious rites, rituals, ceremonies as well as services on arranging and carrying out pilgrimage;
- Provision of frequency (power) regulation services in the EAEU, if the place of delivery is the territory of the Kyrgyz Republic;
- Import of certain goods.

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.

**The tax base** is the value of taxable supplies and the value of taxable import.

#### 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:

1. undenatured ethyl alcohol with an alcohol concentration of 80 percent or more, ethyl alcohol and other alcoholic tinctures, denatured, with any concentration, with HS code 2207;
2. malt beer, natural grape wine, including fortified one, grape must, except as indicated in the commodity position HS 2009, vermouth and other natural grape wine with the addition of flavoring or aromatic substances, other fermented beverages (e.g., cider, perry or pear cider, honey beverage); mixtures of fermented beverages, mixtures of fermented beverages and non-alcoholic beverages, low-alcoholic beverages, not elsewhere named or included, undenatured ethyl alcohol with an alcohol concentration of less than 80 vol. %; spirit tinctures, liqueurs and other alcoholic beverages with HS codes 2203, 2204, 2205, 2206, 2208
3. tonic (energetic) non-alcoholic beverages with HS code 2202;
4. tobacco products, such as cigars, cigars with cut ends, cigarillos (thin cigars) and cigarettes made from tobacco or tobacco substitutes,

with HS code 2402;

5. other products containing tobacco, such as other industrially manufactured tobacco and industrial substitutes for tobacco; "homogenized" or "reconstituted" tobacco; tobacco extracts and essences with HS code 2403;
6. heated tobacco and heated tobacco products, with HS code 2404;
7. nicotine-containing liquid for use in electronic cigarettes, disposable electronic nicotine delivery systems with nicotine liquid in a single case, with HS code 2404;
8. electronic cigarettes and similar individual electric vaporizers (electronic nicotine delivery systems), with HS code 8543 40 000 0;
9. crude oil and petroleum products derived from bituminous rocks, oil and petroleum products derived from bituminous rocks, except crude; products, not elsewhere named or included, containing 70 wt.% or more of oil or petroleum products derived from bituminous rocks, with these petroleum products being the main components of products; used oil products, with HS codes 2707, 2709, 2710, 3811.

**Excise tax** applies to 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
- Physical volume of sold excisable merchandise not required to be marked with the excise duty stamp; and/or
- Physical volume of imported 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 Cabinet of Ministers of the Kyrgyz Republic 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.

**Sales tax** applies to 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

Until January 1, 2023, the zero rate applied to noncash payments for VAT taxable or exempt goods, works and services. Starting from January 2, 2023, the rates applicable to cash payments apply, unless the zero rate is extended until the end of 2023, as announced by the Cabinet of Ministers of the KR.

#### Sales tax rates applicable to cash payments:

1. in case of VAT taxable goods, works, services sold for cash:
  - 1%: for trade and production activities;
  - 2%: for other activities;
2. in case of VAT exempt goods, works and services sold for cash:
  - 2%: for trade and production activities;
  - 3%: for other activities.

The sales tax rates are: 2% for banks, residential and commercial real estate developers<sup>126</sup>, and 5% for mobile network operators<sup>127</sup>.

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<sup>126</sup> Developer means a taxpayer who has the right of temporary use, lease or ownership of a land plot and has an official permit to construct a real estate (apartment houses and other buildings).

<sup>127</sup> Mobile network operator means a provider of mobile radiotelephone communications or satellite communications services listed in the license issued by the competent communications authority to the licensee providing these services.

## 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 means:**

- in case of mining of a mineral deposit (except groundwater) - the amount of mineral reserves recorded by the State Balance of Mineral Reserves of the Kyrgyz Republic;
- in case of groundwater mining - the declared amount of water to be mined;
- in case of exploration and prospecting for minerals - the size of the license area;
- in case of collecting mineralogical, paleontological samples for commercial purposes and stone material for decorative purposes and using as ornamental stones and building materials - the size of the license area;
- in case of transferring mineral rights, the amount of mineral reserves that have not been mined at that time in accordance with mineral right holder reports (mining rights), or the size of the license area;
- in case of change in share capital of the right holder - the amount of mineral reserves that have not been mined at that time in accordance with mineral right holder's reports (mining rights) or the license area, in proportion to the change;
- in case of increase in the number of mineral reserves - the number of increased mineral reserves recorded by the State Commission on Mineral Reserves of the Kyrgyz Republic.

**Rates of bonuses** and procedures for their calculation are established by the Cabinet of Ministers of the Kyrgyz Republic for all types of minerals according to the classification table depending on the amount of mineral reserves to be mined, as well as the size of the license area for prospecting and exploration of minerals and the collection of mineralogical, paleontological samples for commercial purposes and stone material for decorative purposes and use as ornamental stones and building materials.

**Royalties** are the current payments for the right to engage in development of mineral deposits\_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:

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

**Tax base** includes:

- Proceeds from sale of mineral resources or cost of mineral resources before processing except gold, silver and platinum
- Volume of water extracted from subsoil according to water gauge;
- Cost of chemically pure metal contained in metal-containing ore or concentrate of exchange-traded metals sold during the tax period.

**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. Property tax

**Payers** of property tax are:

1. an organization, sole proprietor or individual who has property registered or used in the Kyrgyz Republic that is:
  - held in ownership;
  - held for use along with the land plot;
  - purchased under a finance lease or mortgage contract;
  - held for use along with the structure:
    - a participant of the state housing program who has residential buildings or premises acquired under a lease purchase agreement;
    - a state or municipal enterprise which has property provided thereto for economic management;
    - legislative, judicial, executive authorities, public authorities of the Kyrgyz Republic with special status, other state agency, local self-government authority named in the Constitution of the Kyrgyz Republic, as well as state social security authority of the Kyrgyz Republic and the Deposit Protection Agency, for the property leased thereto or used for recreation, leisure and entertainment purposes.

Property tax applies to:

1. the right of ownership of property registered or subject to registration in the Kyrgyz Republic;
2. the right of economic management of property registered or subject to registration in the Kyrgyz Republic;
3. the right of temporary use of land owned by the state or municipal authority;
4. the right of operational management of property used for recreation, leisure and entertainment purposes;
5. the right of use of state and/or municipal property under the lease

agreement;

6. the right of use of exempt property under the lease agreement.

**Tax base** includes:

1. for buildings, premises, structures and land plots: area of buildings, premises, structures and land plots in square meters;
2. for vehicles, including aircraft and water vessels:
  - with internal combustion engine: engine capacity in cubic centimeters or book value in soms;
  - without internal combustion engine: book value in soms;
  - without internal combustion engine and book value: value in soms determined in the manner prescribed by the Cabinet of Ministers.

**The property tax rates** are:

- **0.35%** for residential buildings and premises;
- **0.8%** for non-residential buildings, structures and premises;
- **1%** for land plots other than agricultural land;
- **0.1%** for agricultural land;
- For vehicles, including aircraft and water vessels:
  - **1%** for internal-combustion engine vehicles;
  - **0.5%** for transport vehicles without internal-combustion engine.

The amount of property tax is calculated according to the formula:

$$T = TB \times TV \times R,$$

where:

T is property tax amount;

TB is taxable base;

TV is taxable value per unit of property;

R is tax rate.

## 6.8. Deductions to the Social Fund of the Kyrgyz Republic

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

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

Also, from January 1, 2019, the Social Fund's administrative functions with respect to state social insurance contributions were transferred to the State Tax Service. At the same time, the matters related to the collection, control over the calculation and payment of insurance contributions to the state social insurance fund, imposition of liability on the payers of insurance contributions for violating the state social insurance law are regulated by the tax law of the Kyrgyz Republic to the extent not covered by and not inconsistent with the state social insurance law, also, the payers of insurance contributions are equated to taxpayers, and control over the calculation and payment of insurance contributions is equated to tax control.

## 6.9. Charges and other mandatory fees

Additionally, Kyrgyz law imposes certain charges and other mandatory fees on business entities depending on their status and type of activity,

such as customs fees (refer to section 15), license retention fees, company registration and re-registration fees, vehicle registration fees, apostille fee, subsoil license fees, waste disposal fees, local infrastructure development and maintenance fees, etc.

## 6.10. 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;
- Patent-based tax regime;
- Free economic zone tax regime;
- High-tech park tax regime;
- Crypto mining tax;
- E-commerce tax;
- Gambling tax.

**Under simplified single tax-based tax regime**, small and medium enterprises and sewing and textile industry entities pay single tax instead of profit tax or sales tax on their taxable income and also entities engaged in taxable import of goods with imputed assessment of import VAT pay single tax instead of profit tax, sales tax and VAT on taxable supplies.

### Single tax rates

Single tax is charged at the following rates:

1. for agricultural products processing, production and trade:
  - 4% in case of cash settlement;
  - 2% in case of non-cash settlement;
2. for other activities:
  - 6% in case of cash settlement;
  - 4% in case of non-cash settlement.

3. An entity subject to conditional VAT regime must pay tax at the rate of 3%.
4. A sewing and/or textile industry entity must pay tax at the rate of 0.25% for the period until January 1, 2027.
5. A taxpayer providing catering, sauna, billiard and bath services, except municipal bath services, must pay tax at the rate of 8%.
6. A taxpayer engaged in several types of activities must calculate and pay tax separately for each type of activity at the rates established for those types of activities.
7. A sole proprietor who sells goods, works and services to the population, except for the taxpayers listed in point 4 above, must pay tax at the following rates:
  - in 2022 – 0%;
  - in 2023 – 1%;
  - in 2024 – 2%;
  - in 2025 - the rates set out in point 1 above.

**Patent-based tax regime** applies instead of profit tax, VAT on taxable supplies and sales tax or income tax, when engaging in self-employment. The patent certifies the right of the taxpayer to engage in the activity specified in the patent, to pay taxes applicable to the activity specified in the patent, to receive income during the tax period covered by the patent. The patent-based tax applies to individuals engaged in self-employment or individual entrepreneurship as per the list approved by the Cabinet of Ministers and organizations engaged in exchange bureau services. The basic patent-based tax amounts by types of activity are determined by the Cabinet of Ministers of the Kyrgyz Republic.

A sole proprietor is different from an individual engaged in self-employment according to the requirements of the Tax Code.

**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, except for

enterprises engaged in the production and sale of tobacco products subject to excise tax and VAT upon import to the rest of the Kyrgyz Republic, registered before 2000. Residents of free economic zones may be only organizations (re)registered with the General Directorate of free economic zones as well as branches (representative offices) previously registered with the FEZ General Directorate, prior to the entry into force of the Law of the Kyrgyz Republic «On Free Economic Zones in the Kyrgyz Republic» dated January 11, 2014 No. 6. 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 0.5% up to 2% of proceeds from sale of goods, works and services 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%.

**Crypto mining tax.** Payers of crypto mining tax are legal entities and sole proprietors engaged in crypto mining which is an activity involving the use of computer software and hardware required to run the ledger of transaction blocks, known as the blockchain, by adding a new transaction to the distributed ledger of existing transactions (according to predetermined rules and principles), and requiring an uninterrupted power supply. Crypto mining tax must be paid instead of income tax, sales tax and VAT on taxable supplies. The crypto mining tax rate is

10% of the amounts charged for electricity consumed during mining, including VAT and sales tax.

E-commerce tax applies to legal entities and sole proprietors engaged in electronic services based on the use of a domain name or IP address registered in the Kyrgyz Republic, or in activities of a seller and/or trading platform operator under e-commerce law of the Kyrgyz Republic. E-commerce tax applies to e-commerce activities instead of income tax, VAT on taxable supplies and sales tax. The tax rate is 2% of proceeds from electronic services or sale of goods.

**Gambling tax** applies only to entities engaged in activities that meet the requirements of the gambling law of the Kyrgyz Republic. Such entities must pay gambling tax instead of:

1. profit tax;
2. VAT on taxable supplies;
3. sales tax.

Taxable gambling activities include the organization and conduct of gambling and the provision of access to gambling outlets such as casinos, slot machines, computer simulators, interactive facilities, electronic (virtual) casinos, bookmakers, totalizers, regardless of server location.

Tax base is:

1. For gambling establishments (casinos): gaming equipment.
2. For totalizers and bookmakers: 1 bet acceptance point (cash desk).
3. For online and electronic (virtual) casinos, regardless of server location: the difference between the taxpayer's earnings and gambling winnings.

Gambling tax must be paid at the rates specified below.

Tax rates are as follows:

1. for 1 gaming table (1 fleet) of the casino:
  - in 2022 - 750,000 soms;

- in 2023 - 1,000,000 soms;
  - from 2024 - 1,250,000 soms;
2. for 1 slot machine of the slot machine and computer simulator hall:
    - in 2022 - 50,000 soms;
    - in 2023 - 75,000 soms;
    - from 2024 - 100,000 soms;
  3. for 1 bet acceptance point (cash desk) of a bookmaker and totalizer:
    - in 2022 - 200,000 soms;
    - in 2023 - 350,000 soms;
    - from 2024 - 500,000 soms;
  4. for online casinos and electronic (virtual) casinos, tax rate is 8 percent.

### Preferential tax regime

Article 183 of the Tax Code stipulates preferential industrial activities that are subject to preferential tax regime in preferential settlements. The Cabinet of Ministers is authorized to approve a list of such industrial activities not more often than once in 5 years in the territory of preferential settlements and subject to preferential tax regime.

The list includes:

1. all types of industrial production based on innovative technologies;
2. light industry and food industry;
3. electric power industry;
4. processing of agricultural products;
5. assembly production;
6. any export-oriented production.

Unless otherwise established, the decision to grant tax exemptions within the territory of a particular preferential settlement to an enterprise engaged in a preferential type of industrial activity shall be made on the basis of an investment agreement approved by a resolution of the

representative bodies of local self-government authorities. Investment agreements are developed by the competent investment authority.

The local self-government authorities of the preferential settlement conclude an investment agreement for 5 years with the establishment of a normative that takes into account the volume of investments, the amount of proceeds from the sale of products and the total amount of income tax paid. In case of compliance with the normatives established in the investment agreement, local authorities have the right to prolong the concluded investment agreement for the next 5 years.

In case of non-compliance with the terms of the investment agreement, the taxpayer loses the right to preferential tax regime and pays taxes for the entire period of the investment agreement.

## **6.11. 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>128</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;
- Quatar;
- Kuwait;
- Kingdom of Saudi Arabia;
- The Republic of Estonia;
- Turkmenistan;
- Great Britain and Northern Ireland;
- The Czech Republic;
- The Republic of Armenia.

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<sup>128</sup> Information taken from the website of the State Tax Service of the Kyrgyz Republic as of March 24, 2023: <http://www.sti.gov.kg>

## 7. ACCOUNTING AND AUDITING

### 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 Cabinet of Ministers of the Kyrgyz Republic.

Financial institutions operating in accordance with the principles of Islamic banking and finance use Islamic financial accounting standards adopted in accordance with Kyrgyz law<sup>129</sup>.

### Auditing

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.<sup>130</sup>

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.

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<sup>129</sup> Article 1 of the Law of the Kyrgyz Republic dated April 29, 2002 No. 76 "On accounting" (with the latest amendments as of December 7, 2017 No. 201 (6)).

<sup>130</sup> Resolution of the Government of the Kyrgyz Republic dated August 28, 2008 No. 470 "On International Standards on Auditing in the Kyrgyz Republic" (with the latest amendments as of October 31, 2019 No. 586).

There are more than 108 licensed audit companies operating in the Kyrgyz Republic<sup>131</sup>.

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<sup>131</sup> Information is taken from the website of the State Service for regulation and supervision of financial market under the Ministry of Economy and Finance of the Kyrgyz Republic as of March 2023: <https://fsa.gov.kg/#/registries/ul/5cddef55-f26c-4be8-922c-0aadb6b44cbc>.

## 8. FOREIGN EXCHANGE POLICY AND CONTROL

The National Bank of the Kyrgyz Republic is the public authority responsible for the development and implementation of the uniform monetary policy and authorized to conduct foreign exchange transactions (the "National Bank")<sup>132</sup>, including the purchase and sale of precious metals and foreign currency in foreign exchange markets, as well as the import (export) of precious metals and any currency without limitations for the purposes of managing international reserves and conducting monetary policy, engaging in its activities and protecting economic interests of the Kyrgyz Republic.

The national currency of the Kyrgyz Republic is the som, which is the only legal tender in the entire territory of the Kyrgyz Republic, mandatory for acceptance without limitations for all types of payments.

In the Kyrgyz Republic, settlements and payments are made in the national currency of the Kyrgyz Republic, unless otherwise provided by law. Prices for goods and services must be indicated in soms and without reference to the foreign exchange rate, except contracts for supply of exported and imported goods and services, when the payment currency is determined by agreement of the parties. Advertising with prices for goods and services in foreign currency is prohibited. Settlements and payments in foreign currency in the Kyrgyz Republic are carried out in the manner established by the National Bank.

Under Kyrgyz law, 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. Residents (individuals and legal entities) who received external loans (credits) must report to the statistics authorities and the National Bank to keep track of the private sector external debt. When receiving loans or opening accounts and deposits outside the Kyrgyz Republic, residents of the Kyrgyz Republic are required to register them with the National Bank

<sup>132</sup> Constitutional Law on the National Bank of the Kyrgyz Republic, August 11, 2022, No.92.

and, upon request, provide information on these accounts and deposits, declarations, other documents and information related to transactions in foreign currency.

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, foreign exchange control is quite liberal 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;
- Foreign exchange transactions, including one-time transactions;
- Purchase and sale of foreign currency by residents and non-residents at duly licensed banks, credit unions, specialized financial and lending institutions holding appropriate licenses issued by competent public authorities;
- Current payments, operating revenues and cross-border transfer of capital.

That said, the National Bank has the right to restrict transfers of funds and capital to ensure observance of the Kyrgyz Republic's international obligations and economic security of the Kyrgyz Republic.

As mentioned above, residents of the Kyrgyz Republic must register<sup>133</sup> with the National Bank their accounts and deposits opened in foreign banks, and quarterly by the 15<sup>th</sup> day of the month following the reporting quarter, must submit account statements as of the end of the preceding

<sup>133</sup> Article 39, National Bank of the Kyrgyz Republic, Banks and Banking Act, December 16, 2016 No. 206 (as last amended November 29, 2021, No.143).

quarter<sup>134</sup>. Notices can be sent by mail (registered mail) or delivered to the expedition of the National Bank by hand. If necessary, the National Bank may request more detailed information on these accounts or deposits.

The purpose of the National Bank's requirement for registration of accounts and deposits opened by residents of the Kyrgyz Republic with foreign banks is to improve the information base necessary for compiling the balance of payments of the Kyrgyz Republic. The balance of payments means statistical reporting, which reflects the aggregate data on international economic transactions of the Kyrgyz Republic with other countries of the world for a certain period of time.

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134 Regulation on registration of accounts and deposits of residents of the Kyrgyz Republic opened with foreign banks approved by the Resolution of the Executive Board of the National Bank of July 5, 2000 No. 26/2 (with the latest amendments dated June 14, 2017 No. 2017-P-10/24).

## 9. BANKING SYSTEM

### State Regulation

The banking system of the Kyrgyz Republic consists of the National Bank of the Kyrgyz Republic, commercial banks and other financial and lending institutions. Banking activities are regulated by the Constitutional Law on the National Bank of the Kyrgyz Republic, Law of the Kyrgyz Republic "On Banks and Banking" enacted on December 16, 2016, No. 206 and effective June 22, 2017 which embodies a number of previous regulations.

The National Bank is a central bank of the Kyrgyz Republic owned by the Kyrgyz Republic. The goal of the National Bank is to achieve and maintain price stability by pursuing the appropriate monetary and credit policy. The primary tasks aimed at achieving the goal of the National Bank are to maintain the purchasing power of national currency and to ensure efficiency, safety and security of banking and payment systems of the Kyrgyz Republic in order to promote long-term economic growth of the republic.

#### **The governing bodies of the National Bank are:**

1. The Executive Board of the National Bank, a chief governing body;
2. The Chairman of the National Bank, a chief executive officer.

The Executive Board of the National Bank is a collegial body responsible for the overall strategy, direction and management of the National Bank. The Executive Board of the National Bank consists of the Chairman of the National Bank, three Deputy Chairmen and three members of the Executive Board of the National Bank. The Executive Board of the National Bank functions on a permanent basis.

The National Bank issues normative legal acts forming an integral part of the banking legislation of the Kyrgyz Republic. Normative legal acts of the National Bank directly affecting the interests of individuals and legal entities, as well as regulating entrepreneurial activity must be officially

published in the manner prescribed by the legislation of the Kyrgyz Republic in the official gazette and on the official website of the National Bank ([www.nbkr.kg](http://www.nbkr.kg)).

**The powers and functions of the National Bank are:** to oversee the banking system of the Kyrgyz Republic, including banks and other legal entities supervised by the National Bank; to determine and pursue monetary policy, to promote financial stability of the Kyrgyz Republic; to develop and pursue single currency policy; to release banknotes on an exclusive basis; to undertake various types and principles of bank financing; to oversee the payment system, to facilitate the effective, reliable and safe operation of the payment system of the Kyrgyz Republic; to issue approvals and permits; to establish banking transaction rules; to act as the lender of last resort to banks; to own and manage all international reserves; to prepare a balance of payment statement together with the statistics authority, and to determine the international investment position of the Kyrgyz Republic; to draft and issue normative legal acts; to represent and act on behalf of the Kyrgyz Republic at international forums, conferences and organizations related to monetary and credit policy, banking and payment systems; to conduct banking transactions; to release (issue) electronic money; to protect banking consumer rights; to exercise other powers in accordance with the legislation of the Kyrgyz Republic.

#### **Monetary and credit policy**

Monetary and credit policy is determined and carried out by the National Bank. When conducting monetary policy, the National Bank may interact with the Cabinet of Ministers of the Kyrgyz Republic. The National Bank independently and in cooperation with the Cabinet of Ministers of the Kyrgyz Republic develops and implements measures aimed at ensuring the financial stability of the Kyrgyz Republic, including macroprudential regulation.

The National Bank regulates the size and structure of the money supply by using the following instruments: buying and selling securities issued

and guaranteed by the Cabinet of Ministers of the Kyrgyz Republic; buying and selling securities issued and guaranteed by the National Bank; buying and selling foreign currency; making loans to banks; changing the National Bank balances and reserve requirements; and other requirements and internationally recognized methods and tools in the field of liquidity regulation.

### **Establishment and Licensing of Banks**

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 7 million). The National Bank plans to increase the minimum authorized capital of banks to 1 billion soms in order to ensure the sustainability of the banking sector.

A bank may conduct the following banking operations in national and/ or foreign currency to the extent expressly provided in the license:

- Accepting deposits on its own behalf on a contractual basis;
- Investing own or borrowed funds on its own behalf on a contractual basis;
- Opening and maintaining accounts;
- Providing settlement, payment and cash services to customs and correspondent banks at their request;
- Issuing, buying, cashing, accepting, keeping, and confirming payment instruments (cheques, letters of credit, promissory notes, and other), including credit and debit cards;
- Buying the creditor's rights in accounts receivable (factoring);
- Paying off debt by buying promissory notes and bills of exchange (forfaiting);
- Issuing and placement of debt securities;
- Issuing bank guarantees;
- Providing money transfer services of clients, including without

opening an account;

- Providing correspondent banking services;
- Providing foreign currency account services and buying and selling (exchanging) foreign currency on behalf of its clients;
- Buying and selling (exchanging) foreign currency on its own behalf;
- Making transactions in precious metals (silver, gold and platinum bars and coins);
- Making transactions in derivative financial instruments (derivatives);
- Issuing electronic money;
- Accepting and making payments and settlements for goods and services, which are other than the outcome of its activities, in favor of third parties through payment systems based on information technology and on electronic means and methods of payment;
- Acceptance, processing and delivery of financial information (processing, clearing) about payments and settlements of third parties to participants of the payment system of this processing and clearing center.

### **Banks may engage in the following activities and transactions:**

- Issuing surety bonds and other obligations in favour of third parties;
- Issuing, buying or selling securities, and providing securities servicing and depository services;
- Providing non-cash assets trustee services;
- Providing safe deposit box services;
- Selling collateral securing a bank loan;
- Providing investment services;
- Providing banking consulting services;
- Providing financial leasing services;
- Providing financial agent services.

Banks may undertake other activities permitted by law and not inconsistent with banking regulations of the Kyrgyz Republic. A bank

may undertake only that activity which is necessary for its principal business activity or related to banking services.

A bank may engage in other types of licensable activities subject to the consent of the National Bank.

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

### **Lending services**

A bank must provide lending services in compliance with responsible lending policy and banking regulations of the Kyrgyz Republic. A bank must have in place a lending policy approved by its Board of Directors and an effective credit risk management system. The Board of Directors must periodically (at least once a year) revise the bank's lending policy, credit exposure limits, credit risk management tools and procedures, and internal credit risk management control and audit policies. A bank must provide lending services subject to the National Bank requirements for lending and credit risk management policies. Islamic investment services must be provided in accordance with the banking regulations of the Kyrgyz Republic subject to specifics and peculiarities of Islamic banking and finance.

### **Mandatory deposit protection system**

Participation in deposit protection system is mandatory for all banks operating in the country. The functions of deposit protection system, formation and use of Deposit Protection Fund, payment of deposit protection compensations, relations among competent deposit protection authority, banks, National Bank, and other public authorities, and as other related matters are regulated by the Bank Deposit Insurance Act. A bank may choose to use additional deposit protection schemes applied in international banking practices.

### **Bank investments**

A bank may undertake investments subject to the following requirements and restrictions:

1. a bank's participation in a non-bank financial institution must be undertaken as a long-term investment;
2. a bank's investment in each non-bank financial institution, including any financial inputs and loans, must not exceed 15% of the bank's equity (regulatory) capital. The total amount of such investments may not exceed 60% of the bank's equity (regulatory) capital;
3. the size of the bank's investment in real estate must not exceed specified limits;
4. related persons must be treated as one person.

### **Standards and Regulations for Banks**

The National Bank establishes standard requirements for banks, including minimum capital and reserve funds requirements. The National Bank also establishes mandatory requirements for officers of commercial banks (chairman and members of the Board of Directors, chief executive officer, deputy chief executive officer, and members of the Executive Committee, chairman of the Audit Committee, chief credit officer, chief accountant, internal auditor and others) who are appointed with the consent of the National Bank.

Foreign-owned banks are subject to the same requirements as domestic banks, including minimum authorized capital, minimum reserve funds and other requirements.

### **Bank audit**

Banks are subject to annual external audit in accordance with international standards on auditing. The bank's Board of Directors must select and propose prospective audit firm or auditor candidates to the general meeting of shareholders. The bank must notify the National Bank of the audit firm and auditor candidates within not later than ninety

business days prior to the date of the general meeting of shareholders. The National Bank may reject the audit firm or auditor candidates as inconsistent with the bank audit requirements and notify the bank thereof within at least 10 business days from the date of receiving the notice. The bank's external auditor can be only the audit firm included in the Uniform State Register of Auditors, Audit Firms and Professional Auditors Associations in the Kyrgyz Republic and meeting the bank audit requirements of the National Bank.

The external auditor must be independent from the bank, which means the ability to act independently and freely from outside influence on the audit results, findings and opinions, under conditions preventing any outside influence on the external auditor's ability to express its opinion. The audit services contract must contain a disclaimer that the audit firm or any of its auditors or other employees has no interests in the bank, is independent and not bound by any relationship with the bank and its officers.

### **Bank Secrecy**

The provision of confidential banking information by banks is regulated by the Law on Banks and Banking.

Confidential banking information includes any data provided by the client to the bank or created by the bank in the course of providing banking services or otherwise arising from relationships between the bank and the client, including their pre-contractual relationships.

Confidential banking information may be provided by the bank for use and such provision does not constitute the provision and disclosure of bank secrecy, to the extent that it is provided to the following persons and used for the following purposes:

1. to bank employees in order to perform their official duties related to the bank's principal business;
2. to persons providing services to the bank in connection with the bank's business if such information is necessary for such services;

3. to a person exercising control over the bank in order to prepare the consolidated report;
4. to the court hearing the disputes between the bank and the client in the case and to the extent necessary to protect their rights and legitimate interests. At the request of the bank or its client, the hearing may be held in camera.

That said, the bank must ensure protection and privacy of confidential banking information provided to the above persons.

### **Exchange of confidential banking information**

To minimize credit risks and to exchange information, banks and other financial and lending institutions are required to exchange credit information on their customers through a credit bureau (Ishenim Credit Bureau CJSC) and other credit bureaus. In addition, banks are permitted, by agreement, to share confidential banking information with each other.

The provision and circulation of confidential banking information for the purposes listed in the legislation on exchange of credit information are not regarded as disclosure of bank secrecy. Banks may provide confidential banking information to credit bureaux (and vice versa) with the consent of their clients who are owners of credit information.

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

Under Kyrgyz law<sup>135</sup>, financial institutions and non-financial entities must report suspicious transactions to the Financial Intelligence Unit in the following cases:

- if a reporting entity suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity (including predicate offences), or are related to money-laundering;

<sup>135</sup> Law of the Kyrgyz Republic "On Combating the Financing of Terrorism and Legalization (Laundering) of Criminal Proceeds" of August 6, 2018, No.87 (with the latest amendments of August 21, 2020, No.139).

- if a reporting entity suspects or has reasonable grounds to suspect that funds are related to the financing of terrorists or extremists (groups) and terrorist or extremist activities.

All suspicious operations (transactions) should be reported regardless of the amount of the transaction, committed or attempted, within 5 hours after identifying such transactions.

Also, financial institutions and non-financial entities must report to the Financial Intelligence Unit any operations (transactions) with individuals or legal entities registered or operating in high-risk countries<sup>136</sup> and any operations (transactions) carried out by individuals who have been convicted of money laundering or terrorist or extremist financing offences, regardless of the amount of the operation (transaction), within 2 business days from the date of carrying out such operation (transaction).

Financial institutions and non-financial entities must report to the Financial Intelligence Unit any cash operations (transactions) in an amount equal to or exceeding the threshold amount. The list of cash operations (transactions) and their threshold amount are established by the Cabinet of Ministers of the Kyrgyz Republic considering the results of the national risk assessment.

Financial institutions include mortgage companies; commercial banks; credit unions; leasing companies; pawnbrokers; microfinance organizations (micro-credit agencies, micro-credit companies, microfinance companies, specialized financial and credit institutions); accumulative pension funds; exchange bureaus; payment system (e-money processing) operators; reinsurance organizations and brokers; payment service providers; postal service organizations; securities market professionals; home savings and loan companies; insurance organizations; insurance brokers; commodity exchanges; e-money issuers and agents (distributors).

<sup>136</sup> <https://fiu.gov.kg/uploads/5c51ce544cc2c.pdf>

Non-financial entities include: public and private notaries; private lawyers (entrepreneurs), law firms and their employees providing professional services related to the preparation or execution of operation (transaction) on behalf of or under the instructions of their client on a contractual basis; realtors (agents, brokers, intermediaries, real estate sales agencies, real estate trusts); individuals or legal entities carrying out transactions involving precious metals and stones, jewellery, and precious metal scrap; individuals or legal entities providing services related to the establishment or management of companies.

The list of financial institutions and non-financial entities kept in the electronic database is compiled and published by a competent public authority determined by the Cabinet of Ministers of the Kyrgyz Republic.

### **Deposit Insurance**

Under the Law of the Kyrgyz Republic "On Bank Depositor Protection" of May 7, 2008, No.78, there has been established the 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 200 thousand (about USD 2,200 as of 2022) 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 compensation:

1. deposits of persons related to a bank, microfinance company or housing savings credit company;
2. deposits of persons who were foreign consultants or external auditors of a bank, microfinance company, or housing savings credit company during the last 3 years;
3. deposits of persons placed by order (power of attorney) of the legal entity;
4. deposits which are objects of restrictions or arrests under the Law of

- the Kyrgyz Republic "On the National Bank of the Kyrgyz Republic, Banks and Banking", "On Microfinance Organizations in the Kyrgyz Republic" and the law regulating housing savings credit companies;
5. deposits in branches of a resident bank or resident microfinance company located outside the Kyrgyz Republic.

### **Banking Services**

In the Kyrgyz Republic, pursuant to the data of the National Bank, as of 2022, there are 23 registered commercial banks, including a branch of the National Bank of Pakistan which is currently in the process of voluntary liquidation. Also, there is a representative office of the Interstate Bank in the Kyrgyz Republic.

According to the World Bank's Report, 'Doing Business', 2019, the Kyrgyz Republic ranks 80<sup>th</sup> (in 2018, 70<sup>th</sup>) out of 190 countries in the world in terms of ease of doing business and 15<sup>th</sup> (last year 32<sup>nd</sup>) in the world in terms of ease of access to loans.

### **Islamic Finance in Kyrgyzstan**

Along with traditional banking services, Islamic finance is actively developing in Kyrgyzstan. In May 2006, the Kyrgyz Republic, the Islamic Development Bank and EcolslamicBank CJSC signed a Memorandum of Understanding on introduction of Islamic banking and finance principles in the Kyrgyz Republic. The parties to this Memorandum agreed to ensure phased introduction of the Islamic banking and finance principles in the banking system of the Kyrgyz Republic as an alternative to conventional financing principles.

In December 2016, the Kyrgyz Civil Code was amended to include the Islamic finance principles effective mid-2017<sup>137</sup>. Previously, Islamic banking services were regulated by the acts of the National Bank.

Many financial and lending institutions have the Islamic finance windows.

<sup>137</sup> Articles 738-1 to 738-57 of the Civil Code, Part II of January 5, 1998 No. 1 (as last amended September 15, 2021 No. 120).

In addition, there are microfinance and finance lease organizations offering only Islamic finance services.

## 10. EMPLOYEE RELATIONS

### Labour Law

The principal legal act regulating employee relations is the Labour Code of the Kyrgyz Republic<sup>138</sup>.

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 their job functions in the relevant area of practice or official capacity and to observe the internal labour 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

<sup>138</sup> Labour Code of the Kyrgyz Republic, August 4, 2004, No. 106 (with the latest amendments as of December 23, 2022).

employer of the obligation to conclude a written employment contract with such employee.

Employment contracts are concluded 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. Labour law sets forth specific cases when an employment contract may be concluded for a definite period.

Unless the term of the employment contract is specified therein in writing, such contract is deemed concluded 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 concluded for an indefinite period.

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

In 2022, new regulations on remote work were introduced to the labour law. Remote work means the practice of performing a job function defined in an employment contract from a location other than the employer's premises, subject to the use of information and telecommunication technologies for the purposes of performing such job function and maintaining interaction between the employer and the employee on related issues.

Remote employees are regulated by the labour law and other legal acts, subject to the rules specific to remote work.

The terms and conditions of remote work must be set out in the employment contract.

## Probationary Period

When concluding an employment contract, the parties may agree to the inclusion of a probationary period clause to determine if an employee is suitable for a particular job. The probationary period 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. Labour law sets forth specific cases when a probationary period clause is not applicable.

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.

## 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 contraindicated 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;
- Short-time;
- Part-time.

Normal working time 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 work 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 or output produced. 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 approved by the employer in consultation with the employee representative body. 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;
- April 7 – People's April Revolution Day;
- May 1 – Labour Day;
- May 5 – Kyrgyz Constitution Day;
- May 9 – Victory Day;
- August 31 – Independence Day; and
- November 7 and 8 – Ancestors' History and Memory Days.

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 carried over 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 Labour 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 (compensation) 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).

Wage is paid in cash in the national currency of the Kyrgyz Republic (KGS). Employers 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<sup>139</sup>, as of 2023, a statutory minimum wage is KGS 2,337 (approximately USD 26 as of January 2022).

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.

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<sup>139</sup> Law of the Kyrgyz Republic "On the republican budget of the Kyrgyz Republic for 2022 and the forecast for 2023-2024" of January 17, 2022, No.1.

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 labour 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. It is also possible to resolve workplace conflicts through mediation in the manner prescribed by the mediation law.

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>140</sup>) on the basis of employment quotas and work permits. The competent authority responsible for issuing quotas to employers to hire foreign employees and work permits to foreign employees is the Migration Department of the Ministry of Labour, Social Welfare and Migration of

the Kyrgyz Republic.

There is a fee to apply for work permits collected by the migration authority to cover the cost of issuing such permits. The cost of work permits is determined by the Cabinet of Ministers of the Kyrgyz Republic.

The foreign worker quotas are set and approved by the Cabinet of Ministers of the Kyrgyz Republic annually 4 months before the beginning of the calendar year taking into account the public interest and the local labour market situation. The foreign worker quotas are distributed by the Migration Department of the Ministry of Labour, Social Welfare and Migration 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.

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<sup>140</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 ESTATE

### Real Estate Law

Under the Kyrgyz Civil Code,<sup>141</sup> real estate 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 real estate rights is performed by the Cadaster State Institution under the State Agency for Land Resources under the Ministry of Agriculture, Water Resources and Regional Development of the Kyrgyz Republic<sup>142</sup>.

Real estate rights and encumbrances, as well as real estate 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>143</sup> and the Rules on state registration of rights and encumbrances (restrictions) on real estate rights and transactions<sup>144</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

<sup>141</sup> Article 24 of the Civil Code of the Kyrgyz Republic (with the latest amendments as of August 5, 2022).

<sup>142</sup> Regulation on Cadaster State Institution of the Land Service under the Ministry of Agriculture of the Kyrgyz Republic approved by the Resolution of the Cabinet of Ministers of the Kyrgyz Republic dated August 6, 2021, No.116.

<sup>143</sup>The Law of the Kyrgyz Republic "On State Registration of Immovable Property Rights and Transactions" dated December 22, 1998, No. 153 (with the latest amendments as of February 25, 2021).

<sup>144</sup> Approved by the Resolution of the Government of the Kyrgyz Republic of February 15, 2011 No. 49 (with the latest amendments as of December 6, 2021).

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.

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.

### Land Relations

The principal regulatory act governing land relations in the Kyrgyz Republic is the Land Code of the Kyrgyz Republic<sup>145</sup> according to which, the land fund in the Kyrgyz Republic comprises the following:

<sup>145</sup> The Land Code of the Kyrgyz Republic of June 2, 1999, No. 45 (with the latest amendments as of August 5, 2022).

- Agricultural land including farmland and land occupied by on-farm roads, communications, water reservoirs, buildings and structures necessary for farming;
- Residential land;
- Industrial, transport, communications, energy, defence and other infrastructure land;
- Specially protected areas;
- Forest land;
- Water-related land;
- Reserve land.

The conversion (transformation) of land from one category into another is set forth by 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>146</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 No 571.

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

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<sup>146</sup> The Law of the Kyrgyz Republic "On conversion (transformation) of land plots" dated July 15, 2013, No. 145 (with the latest amendments as of April 1, 2022) and the Interim Regulation on procedure of conversion (transformation) of land plots dated March 19, 2014 (with the latest amendments as of April 22, 2021).

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

1. If there is a private building or facility, including incomplete construction, on the land plot previously provided for fixed-term (temporary) use;
2. If the land plot was put up for auction twice but was not leased out;
3. 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;
4. 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.

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

- Residential Property

Citizens and legal entities have the right to own residential property without limitation<sup>147</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;

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<sup>147</sup> The Housing Code of the Kyrgyz Republic dated as of 9<sup>th</sup> July 2013, No. 117 (with the latest amendments as of August 6, 2022).

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.

### **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, located in the ecological and economic system of Lake Issyk-Kul<sup>148</sup> but they may use such assets in the manner determined by the Cabinet of Ministers of the Kyrgyz Republic.

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;
  - 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%

<sup>148</sup> Article 20, Law on Sustainable Development of Issyk-Kul Eco-economic System, August 13, 2004, No. 115 (with the latest amendments as of August 21, 2020).

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>149</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 Cabinet of Ministers 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 nationals, stateless persons and foreign legal entities except kairylman (repatriates)<sup>150</sup> may not receive land plots located within the frontier area for fixed-term (temporary) use or into ownership;
- 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 agricultural land by way of universal succession (inheritance, reorganization) must alienate such land to a Kyrgyz national or legal entity within one year

<sup>149</sup> Article 7 of the Law of the Kyrgyz Republic "On Management of Agricultural Land" dated January 11, 2001, No. 4 (with the latest amendments as of August 14, 2020).

<sup>150</sup> Kairylman is an ethnic Kyrgyz who is a foreign citizen or stateless person who voluntarily moves to the Kyrgyz Republic and receives the status of a kairylman (Law of the Kyrgyz Republic "On State Guarantees to Ethnic Kyrgyz Resettlers in the Kyrgyz Republic" of November 26, 2007, No.175 (as amended on January 27, 2015).

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 three years.

Foreign persons and foreign legal entities can receive use rights or title to land plots located within settlements in case of the enforcement of mortgage security on the condition of subsequent alienation within two years from the moment of acquiring title in the manner prescribed by the pledge law of the Kyrgyz Republic.

If agricultural land is inherited by a foreign person, it must be alienated to a citizen of the Kyrgyz Republic within one year from the moment of acquiring the right to the land plot.

The immovable property not alienated within specified period 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.

## 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 agreements or treaties to which the Kyrgyz Republic is a party.

The primary legislation regulating IP comprises the Civil Code of the Kyrgyz Republic<sup>151</sup>, the Patent Law<sup>152</sup>, the Law of the Kyrgyz Republic "On Trademarks, Service Marks and Geographical Indications"<sup>153</sup>, Law of the Kyrgyz Republic "On Copyright and Neighbouring Rights"<sup>154</sup>, Law of the Kyrgyz Republic "On Legal Protection of Computer and Data Base Software"<sup>155</sup>, other laws and regulations.

The Kyrgyz Republic is a party to international treaties and conventions 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, the Hague Agreement Concerning the International Registration of Industrial Designs and the Geneva Act. 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-

<sup>151</sup> Civil Code of the Kyrgyz Republic dated 8 May 1996 No. 15, Part 1 (with the latest amendments as of February 28, 2023) and Civil Code of the Kyrgyz Republic of January 5, 1998 No. 1. Part II (with the latest amendments as of September 15, 2021).

<sup>152</sup> Kyrgyz Patent Law dated 14 January 1998 No. 8 (with the latest amendments as of March 23, 2020);

<sup>153</sup> The Law of the Kyrgyz Republic "On Trademarks, Service Marks and Geographical Indications" dated January 14, 1998 No. 7 (with the latest amendments as of March 23, 2020).

<sup>154</sup> The Law of the Kyrgyz Republic "On Copyright and Neighboring Rights" dated January 14, 1998 No.6 (with the latest amendments as of May 24, 2021).

<sup>155</sup> 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 March 23, 2020).

Related Aspects of Intellectual Property Rights served as the basis for the national intellectual property legislation.

### Intellectual Property

Legal protection of intellectual property (inventions, utility models, industrial designs, trade names, trademarks, service marks and geographical indications, copyright and neighbouring rights, layout designs of integrated circuits, breeder's rights, undisclosed information (trade secrets), including production secrets, i.e. know-how) is granted by virtue of their being created or by the order of the competent authority.

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 intellectual property. Upon registration of a trademark, service mark, or geographical indication 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 geographical indication.

The public agency authorized to register these objects in the Kyrgyz Republic is the State Agency for Intellectual Property and Innovation under the Cabinet of Ministers of the Kyrgyz Republic (Kyrgyzpatent)<sup>156</sup>.

The exclusive right to a trade name arises from the date of state registration of a legal entity with the Ministry of Justice of the Kyrgyz Republic. Copyright and neighbouring rights arise without the need for registration or other formalities.

### 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 respective application to Kyrgyzpatent and this term may not be extended.

<sup>156</sup> Official website of Kyrgyzpatent: <http://www.kyrgyzpatent.kg>.

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 this term may be extended upon request of the patent holder, but for no more than 3 years.

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 this term may be extended upon request of the patent holder, but for no more than 5 years.

### **Trademarks, Service Marks, and Geographical Indications**

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>157</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 12<sup>th</sup> 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.

A geographical indication 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

<sup>157</sup> Article 2, part 3 of the Law «On Trademarks, Service Marks and Geographical Indications» dated January 14, 1998 No.7 (with the latest amendments as of March 23, 2020);

essentially or exclusively due to the particular geographical environment comprising inherent natural and human factors thereof. A registered geographical indication is confirmed by a certificate. The period of validity of the certificate is 10 years from the date of application and it may be extended for another 10 years.

### **Trade Names**

A trade name is the full name of the legal entity under which it operates and which distinguishes it from another legal entity. The exclusive right to a trade name arises from the date of state registration of the legal entity with the Ministry of Justice of the Kyrgyz Republic and ceases to exist after its dissolution or name change.

The legal entity has the exclusive right to use its trade name as a means of identification in any way not inconsistent with the law, including by indicating it on signboards, letterheads, invoices and other documentation, in announcements and advertising, on goods or their packaging, on the Internet.

### **Copyright and neighbouring rights**

Kyrgyz law protects works of science, literature, and art (copyright), as well as phonograms, performances, stage plays, broadcast programs by broadcasting and cablecasting organizations (neighbouring rights). Protection is provided without registration of respective works or any other formalities. As a general rule, copyright is valid for the life of the author and 50 years after their death. Neighboring rights are valid for 50 years after the first performance or staging or publication of a phonogram (or 50 years after its first recording, if the phonogram was not published within this period), or broadcast or cablecast.

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 copyright or neighboring rights at any time during the period of copyright or neighboring rights protection by registering them in Kyrgyzpatent's official registries which is confirmed by a certificate.

### **Layout designs of integrated circuits**

A layout design of an integrated circuit refers essentially to the three-dimensional character of the elements and interconnections of an integrated circuit. An integrated circuit (IC) is an electronic circuit in which the elements of the circuit are integrated into a medium, and which functions as a unit. Legal protection is granted only to the original layout design, i.e. resulting from creative activity of its author.

The author or other right holder has an exclusive right to use such layout design at their own discretion in particular, to manufacture and distribute integrated circuits with such layout design, including the right to prohibit the unauthorized use of such layout design by other persons.

The exclusive right to use the layout design is valid for 10 years starting from the earliest of the following dates:

- date of the first use of the layout design implying the earliest recorded date when this layout design or integrated circuit with such layout design has been introduced somewhere in the world;
- date of registration of the layout design with Kyrgyzpatent (on a voluntary basis).

### **Breeder's rights**

The plant or animal breeder's rights will be protected if a patent is issued by Kyrgyzpatent. The patent is issued if a new plant variety or animal breed meets the eligibility criteria (novelty, distinctness, uniformity, stability) and relates to botanical and zoological genus and species. The term of the patent is 25 years from the date of registration of the new

variety or breed with the State Register of Protected Varieties and Breeds.

The patent holder has the exclusive right to use the new variety or breed. The exclusive right of the patent holder means the right to undertake the following actions in respect of propagating material of the protected variety or breed:

- production and reproduction;
- preparation for sowing;
- offer for sale;
- sale and other types of marketing;
- export from the Kyrgyz Republic;
- import into the Kyrgyz Republic;
- storage for the above purposes.

### **Undisclosed information**

A person lawfully possessing technical, organizational or commercial information, including production secrets (know-how) unknown to third parties (undisclosed information), is entitled to protection of this information against illegal use if the following conditions are met:

- information has actual or potential commercial value due to its being unknown to third parties;
- information is not legally accessible;
- information owner takes measures to protect confidentiality.

The right to protection of undisclosed information against illegal use arises without formality (registration, obtaining certificates, etc.).

The undisclosed information protection requirements do not apply to information that cannot, under law, refer to official or commercial secret (information about legal entities, property rights and transactions subject to state registration, information to be submitted as part of state statistical reporting etc.).

## Intellectual Property Representation Services

Foreign persons or their patent attorneys handle cases related to IP protection through patent attorneys registered with Kyrgyzpatent<sup>158</sup>. As of today, there are 37 certified patent attorneys operating in Kyrgyzstan<sup>159</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.

The Kyrgyz Republic has signed bilateral agreements with the following countries:

- the Russian Federation (the Agreement on Industrial Property Cooperation between the Governments of the Kyrgyz Republic and the Russian Federation effective from October 13, 1995);
- the Republic of Uzbekistan (the Agreement on Industrial Property Cooperation between the Governments of the Kyrgyz Republic and the Republic of Uzbekistan effective from December 24, 1996);
- the Azerbaijan Republic (the Agreement on Industrial Property Cooperation between the Governments of the Kyrgyz Republic and the Azerbaijan Republic effective from August 27, 1997);
- the Republic of Armenia (the Agreement on Industrial Property Cooperation between the Governments of the Kyrgyz Republic and the Republic of Armenia effective from June 18, 1998).

## Protection of Intellectual Property Rights

Kyrgyz customs authorities ensure protection of copyright and neighboring rights, trademarks, service marks and geographical

<sup>158</sup> Article 3, the Patent Attorneys Law of the Kyrgyz Republic, February 19, 2001, No. 24 (with the latest amendments as of March 23, 2020).

<sup>159</sup> Based on information found on the official website of Kyrgyzpatent: <http://patent.kg/index.php/ru/attorneys.html>

indications. For this purpose, at the request of right holders or their representatives, the indicated IP rights are entered in the register of protected intellectual property rights for up to two years upon payment of an appropriate customs 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>160</sup>

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

The Code of Offenses<sup>161</sup> envisages administrative fines and/or confiscation of goods as punishment for intellectual property infringements.

Criminal liability for intellectual property infringement is imposed by the Criminal Code of the Kyrgyz Republic<sup>162</sup>. Thus, intellectual property infringement is punishable by sanctions up to imprisonment.

According to the general rule, intellectual property rights are protected through court proceedings. These disputes fall within the competence of courts of general jurisdiction.

<sup>160</sup> Article 20 of the KR Law on Competition dated July 22, 2011 No.116 (with the latest amendments as of June 30, 2022).

<sup>161</sup> Code of Offenses of the Kyrgyz Republic, October 28, 2021, No. 128 (with the latest amendments as of February 15, 2023).

<sup>162</sup> The Criminal Code of the Kyrgyz Republic, October 28, 2021, No. 127 (with the latest amendments as of August 9, 2022).

## 13. ANTITRUST REGULATION

### Legislation

Anti-trust law of the Kyrgyz Republic consists of the Law of the Kyrgyz Republic, "On Competition"<sup>163</sup>, Law of the Kyrgyz Republic "On Natural Monopolies in Kyrgyz Republic"<sup>164</sup>, Law of the Kyrgyz Republic "On Advertising"<sup>165</sup>, and others laws and regulations.

Natural monopolies are regulated and controlled by the anti-trust authority and relevant regulatory authorities within the scope of their competence. The State Anti-Trust Service of the Ministry of Economy and Commerce of the Kyrgyz Republic is the competent authority responsible for the pursuit of national antitrust and fair competition policy and anti-trust regulation in all sectors of the economy, except the fuel and energy industry.

### Unfair Competition

Unfair competition means any anti-competitive business practices aiming to gain unfair advantages inconsistently with the Competition Law, customary business practices, standards of honesty, reasonableness and fairness and may cause economic harm to other competing businesses or damage to their business reputation.

The State Anti-Trust Service of the Ministry of Economy and Commerce of the Kyrgyz Republic enforces antitrust and fair competition policy by controlling the operations of market participants. Some of its main functions include the following:

- Analysing the state of competition in the respective markets for goods and services (works);

<sup>163</sup> Competition Law of the Kyrgyz Republic, No. 116, July 22, 2011 (as amended June 30, 2022).

<sup>164</sup> Natural Monopolies Law of the Kyrgyz Republic, No. 149, August 8, 2011 (as amended June 30, 2022).

<sup>165</sup> Advertising Law of the Kyrgyz Republic, No. 155, December 24, 1998 (as amended March 23, 2021).

- Protecting the rights of business entities and individuals against monopolistic and unfair competition practices and anticompetitive documents or acts (omissions) of state government or local self-government authorities;
- Preparing opinions on drafts of fair competition acts and regulations;
- Reviewing complaints and grievances of individuals and legal entities, irrespective of their ownership, regarding violation of antitrust, consumer protection and advertising laws; and
- Other.

### The list of practices prohibited by unfair competition law includes the following:

- 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.

**The list of prohibited anti-competitive and abusive monopolistic practices includes the following:**

- 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;
- Establishing and maintaining high or low monopolistic prices of goods;
- 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,technologicallyorotherwiseunfoundedestablishment of various prices (tariffs) for one and the same product, unless

- otherwise provided by Kyrgyz antitrust law;
- Setting of unreasonably high or unreasonably low prices for financial services.

### **Concerted actions of business entities**

The list of prohibited concerted actions limiting competition includes the following:

- Establishing (maintaining) prices (tariffs), discounts, allowances (surcharges), margins;
- Increasing, decreasing or maintaining prices on the same level in the market or at auction;
- 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.

It is prohibited to enter into vertical agreements (agreements between business entities, one of which purchases or may potentially purchase goods, and the other sells or may potentially sell goods) which have or may have a restrictive effect on competition, including the agreements:

- 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.

It is prohibited to enter into business agreements (except vertical agreements other than those listed above) which have or may have a restrictive effect on competition, including the agreements:

- setting or supporting discriminatory terms compared to equivalent agreements with other business entities, including negotiated terms of purchase and (or) sale of goods;
- imposing prices (tariffs) for similar product that are not economically, technologically or otherwise justifiable;
- creating entry and exit barriers for other business entities in a commodity market;
- imposing conditions of membership in professional and other associations;
- unreasonably restricting or terminating the sale of goods.

It is also prohibited to engage in coordination of economic activities of business entities (i.e., coordination of actions of business entities by a third party that is not part of the group of these business entities and does not operate in the same commodity market), if it has or may have the above effects.

The above anti-competitive agreements can be deemed admissible by the anti-trust authority in the following exceptional cases:

- Agreements or concerted actions of business entities may be deemed admissible if they do not create opportunity for anticompetitive conduct of certain persons in the respective commodity market or

impose limitations on their shareholders or third parties and 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.

### **Control of economic concentration and obtaining consent for economic concentration from the antitrust authority**

To prevent undertakings leading to dominant position and (or) restriction of competition the antitrust authority may exercise state control in the following cases:

1. reorganization by merger, acquisition, transformation of business entities (their associations);
2. creation of business entities, in which more than 5% of the shares (interest) are held by the State;
3. creation of business entities by the affiliated persons and/or group of persons under Articles 3 and 5 of the Competition Law;
4. creation, liquidation and reorganization by merger, or acquisition of state and municipal enterprises.

Business entities that make decisions on the creation, liquidation or reorganization by merger, acquisition, transformation, in the cases specified above, must obtain consent from the antitrust authority.

In cases of creation, liquidation or reorganization by merger, acquisition or transformation of business entities specified above, their state registration (re-registration) must be made by the registering authority only with the prior consent of the antitrust authority. Registration (re-registration) of business entities specified above by the registering authority without prior approval by the antitrust authority, shall be considered invalid or suspended.

### **Liability**

Persons guilty of violating anti-trust law are held liable in accordance with Kyrgyz law. The imposition of liability does not release the culprits from the obligation to comply with the decision of the anti-trust authority.

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

The anti-trust authority and its local offices, within the scope of their competence, control compliance with the Kyrgyz antitrust, consumer protection and advertising legislation by undertaking measures to ensure:

- fair competition and effective functioning of markets for goods, works and services , assessment of the state of competitive environment, development of proposals on removal of barriers to competition, review of petitions of business entities, state-owned and municipal enterprises on reorganization, liquidation, acquisition of shares (interests) in the charter capital if this leads to the creation of a business entity (business associations) occupying a dominant position, making decision on forcible division (separation) of business entities occupying dominant position in the market and systematically engaged in monopolistic activity, reviewing requests of natural monopolies for approval of actions envisaged by the legislation of the Kyrgyz Republic, etc.);
- effective state control over compliance with the Kyrgyz antitrust and pricing policies (balancing the interests of consumers and natural monopoly entities, formation and maintenance of the public registry of natural monopoly entities, control over natural monopoly entities, etc.);
- protection of consumers from monopolistic and unfair competition practices (approval of prices (tariffs) of services (works), except educational services, provided by state government and local self-government authorities, organizations and institutions, approval of cost of permitting documents issued by the executive authorities, etc.);

- regulation of advertisers, advertising agents, 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, submission of documents to the prosecution authorities and other law enforcement agencies to resolve the issue of initiating criminal proceedings on charges of committing advertising offences, etc.);
- general inspections of compliance with antimonopoly, consumer protection and advertising legislation of the Kyrgyz Republic, as well as review of correct formation and application of prices (tariffs) by business entities, public authorities, local self-government authorities, organizations and institutions; and also review of complaints and statements of individuals and legal entities, regardless of the form of ownership, on non-compliance with anti-trust, consumer protection, and advertising legislation of the Kyrgyz Republic.

**Types of control of natural monopolies:**

- Undertaking price regulation through price (tariff) setting and price ceiling;
- Establishing mandatory or minimum consumer (subscriber) service requirements for natural monopolies, if the need in their goods or services cannot be fully satisfied, to the extent necessary to protect public interests, national security, natural resources and cultural values;
- Establishing trade mark-up size requirements;
- Establishing requirements for engineering and technical services being natural monopoly entities to develop respective engineering and technical facilities, if the need in their goods (services) cannot be fully satisfied.

## 14. ENVIRONMENTAL PROTECTION

Environmental safety is an integral part of the country's national security and a prerequisite for sustainable development, preservation and sustenance of natural resources and the environment.

### Legislation

Kyrgyz legal and regulatory framework for environmental protection and effective natural resources management consists of the Environmental Protection Act of June 16, 1999, Atmospheric Air Protection Act of June 12, 1999, Environmental Impact Assessment Act of June 16, 1999, Specially Protected Natural Areas Act of May 3, 2011, Biosphere Reserves Act of June 9, 1999, Technical Regulation on Radiation Safety of November 29, 2011, and other environmental acts and regulations. Special safety requirements for protection of atmospheric air, water resources, wildlife species, soil and natural landscapes, and for disposal of industrial and domestic waste are established by the Environmental Safety General Technical Regulation Act of the Kyrgyz Republic of May 8, 2009 No.151, Production and Consumption Waste Act No. 89 of November 13, 2001, etc.

The Kyrgyz Republic is getting more actively involved in the world community activity aimed at restraining global environmental threats including the process of unification of efforts of states. Since 2007, the Kyrgyz Republic has acceded to 11 international environmental conventions and 3 protocols to them.<sup>166</sup>

Currently, the competent public authority in charge of environmental protection, ecological and technical safety and nature management policy is the Ministry of Natural Resources, Environment and Technical Oversight.<sup>167</sup>

<sup>166</sup> Concept paper on ecological safety of the Kyrgyz Republic approved by Kyrgyz Republic Presidential Edict No. 506: dated November 23, 2007.

<sup>167</sup> Regulations on the Ministry of Natural Resources, Environment and Technical Oversight approved by Cabinet of Ministers Resolution No. 263 dated November 15, 2021.

### Environmental Impact Assessments and environmental review

The planning, placement, construction, reconstruction, technical re-equipment, and commissioning of facilities and projects that may have direct or indirect impact on the environment must be subject to environmental impact assessment (EIA) and other measures aimed at ensuring environmental protection, rational use, reproduction of natural resources, improvement of the environment in compliance with environmental standards. The environmental impact assessment procedure must be undertaken by the project initiator in accordance with the currently effective regulations. Environmental impact assessment must be organized and conducted when preparing feasibility studies on the following projects:

- developing concepts, programs and plans for sectoral and local socio-economic development;
- developing schemes of integrated use and protection of natural resources;
- developing master plans of cities, settlements and other urban planning documentation;
- undertaking new construction, reconstruction, expansion and technical re-equipment of existing economic and other facilities that have or may have impact on the environment.

The environmental impact assessment report is required for all types and stages of development of project documentation and serves as the basis for making a decision by a designated public authority for environmental impact assessment.

Under Kyrgyz law, business entities' projects related to the use of natural resources are subject to environmental impact assessment.<sup>168</sup> The identification of site as well as planning, construction, and commissioning of commercial facilities must be made in accordance with the current legislation and on the basis of a positive conclusion of the

<sup>168</sup> The Environmental Impact Assessment Act of the Kyrgyz Republic, No. 54, dated June 16, 1999 (with the latest amendments as of May 4, 2015).

state environmental review. The commissioning of facilities is prohibited if they are not fitted with purification, neutralization, hazardous waste disposal, emission and discharge and other environmental pollution control systems and equipment to reduce pollution to maximum permissible limits. 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.

There are two types of environmental impact assessment conducted in the Kyrgyz Republic: state environmental impact assessment and public environmental impact assessment. The financing or implementation of any natural resources management projects cannot be undertaken without obtaining prior state environmental clearance. The competent authority for environmental review is the Ministry of Natural Resources, Environment and Technical Oversight of the Kyrgyz Republic, the review period is up to 3 months.

### **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 reproduction and rational use of natural resources, are subject to environmental standardization and certification. A list of such products is approved by the Cabinet of Ministers of the Kyrgyz Republic.

### **Environmental Audit**

Environmental audit is undertaken by independent experts to review a company's operations and processes to determine compliance with environmental regulations, to prevent or remove environmental violations and to identify the risk of its environmental impacts. Environmental audit services are provided at the companies' own

expense or using the duly raised capital.

### **Environmental insurance**

Voluntary and compulsory environmental insurance of legal entities and individuals, their property and income against losses from natural disasters, accidents and catastrophes, as well as pollution liability insurance provide coverage on the risk of loss of life, health and property of the population in the Kyrgyz Republic. Compulsory environmental insurance is required for legal entities and citizens engaged in environmentally hazardous business and other activities<sup>169</sup>.

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<sup>169</sup> Article 36 of the Law of the Kyrgyz Republic "On Environmental Protection" dated June 16, 1999 No. 53.

## 15. CUSTOMS REGULATION

### Legislation

The Kyrgyz Republic is a rightful member of the Eurasian Economic Union (the "EAEU") along with the Republic of Armenia, Republic of Belarus, Republic of Kazakhstan and the Russian Federation. The Treaty on Accession of the Kyrgyz Republic to the EAEU Treaty entered into force on August 12, 2015<sup>170</sup> thus making the treaties and acts forming part of the EAEU law effective for the Kyrgyz Republic<sup>171</sup>.

In the EAEU, there is applied common customs regime based on the EAEU Customs Code<sup>172</sup>, the EAEU Treaty and other international agreements and acts forming part of the EAEU law. Customs matters not covered by international agreements and customs regulations will be governed by the customs laws of the EAEU member states until addressed by such international agreements and regulations.

The customs matters in the Kyrgyz Republic are being governed by the customs legislation of the EAEU (including the EAEU Customs Code), the customs legislation of the Kyrgyz Republic including the Customs Regulation Act and other normative legal acts, and by the treaties and other international acts related to customs clearance. The customs legislation of the Kyrgyz Republic applies until the entry into force of regulatory legal acts implementing the Customs Code of the EAEU to the extent not inconsistent with the latter.

### Customs regulation

The State Customs Service under the Ministry of Finance of the Kyrgyz

<sup>170</sup> The Treaty of Accession of the Kyrgyz Republic to the Treaty on the Eurasian Economic Union of May 29, 2014 was signed on December 23, 2014 and entered into force on August 12, 2015.

<sup>171</sup> <http://www.eurasiancommission.org/ru/nae/news/Pages/12-08-2015-1.aspx>

<sup>172</sup> Ratified by the Law of the Kyrgyz Republic "On ratification of the Treaty on the Customs Code of the Eurasian Economic Union, signed on April 11, 2017 in Moscow" dated December 30, 2017 No. 223 (28).

Republic is the competent customs clearance authority in the Kyrgyz Republic.

Customs declaration is required for goods placed under a customs procedure or in other cases specified in the EAEU Customs Code.

Customs declaration of goods is made by the declarant or customs representative acting on behalf and at the instruction of the declarant.

Customs declarations can be submitted in written and/or electronic form.

Customs control is applied by the customs authorities represented by the competent customs officers acting within the scope of their official (functional) duties in accordance with the EAEU customs legislation and that of the EAEU member-states.

The goods crossing the customs border can be placed under a chosen customs procedure in the manner and on the terms and conditions set forth in the EAEU Customs Code and the EAEU member states legislation.

The chosen customs procedure can be replaced by another one in accordance with the EAEU Customs Code.

### Customs Procedures

There are following types of customs procedures applied to goods:

1. release for internal use;
2. export;
3. customs transit;
4. bonded warehouse;
5. inward processing;
6. outward processing;
7. processing for internal use;
8. free customs zone;

9. free warehouse;
10. temporary importation under bond;
11. temporary exportation;
12. re-import;
13. re-export;
14. duty-free trade;
15. destruction;
16. bequeath to the state;
17. special customs procedure.

### **Customs Fees**

Customs fees include:

1. import customs duty;
2. export customs duty;
3. value-added tax charged on goods imported to the EAEU customs territory;
4. excise duty (excise tax or excise charge) charged on goods imported to the EAEU customs territory;
5. customs charges.

Special, anti-dumping and compensatory duties are introduced in accordance with the Eurasian Economic Union Treaty and charged in the manner provided in the EAEU Customs Code.

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

Customs control is a set of measures adopted by the customs authorities with an aim of reviewing and(or) ensuring compliance with international agreements and regulations and legislation of the EAEU member states related to customs regulation.

Customs control is applied by the customs officers of the customs authorities to objects of customs control, defined by the Customs Code

of the EAEU with the application of statutory customs control forms and(or) measures.

The forms of customs control include:

1. getting explanations;
2. verification of documents and information;
3. customs inspection;
4. customs search;
5. personal customs search;
6. customs inspection of premises and territories;
7. customs check-up.

Customs control is carried out in the customs control zone and other places where goods are (must or may be) located, including vehicles of international transport and vehicles for personal use, subject to customs control, documents and (or) information systems containing information about such goods.

## 16. INSURANCE

### Legislation

Insurance companies are regulated by the Civil Code and acts of the Kyrgyz Republic such as Organization of Insurance Act,<sup>173</sup> Compulsory Insurance of Employer Civil Liability for Occupational Injury or Death Act<sup>174</sup>, Compulsory Insurance of Carrier Civil Liability to Passengers Act<sup>175</sup>, Compulsory Insurance of Civil Liability of Carriers of Hazardous Cargoes Act<sup>176</sup>, Compulsory Insurance of Civil Liability of Entities Operating Hazardous Facilities Act<sup>177</sup>, Peculiarities of Crop Insurance Act<sup>178</sup>, Compulsory Insurance of Civil Liability of Vehicle Owners Act<sup>179</sup>, Compulsory Insurance of Residential Premises against Fire and Natural Disasters Act<sup>180</sup> and other normative legal acts.

### Establishment and Licensing

Insurance companies may be founded as open or closed joint stock companies with the initial share capital amounting to:<sup>181</sup>

173 Organization of Insurance Act dated July 23, 1998 No. 96 (with the latest amendments as of August 6, 2018).

174 Compulsory Insurance of Civil Liability of Employer for Death or Injury of Employee While on Duty Act dated August 5, 2008, No. 194 (as amended March 22, 2016, No.24).

175 Compulsory Insurance of Civil Liability of Carrier to Passengers Act dated August 4, 2008, No. 189 (as amended March 22, 2016, No.24).

176 Compulsory Insurance of Civil Liability of Carrier of Hazardous Cargoes Act dated August 4, 2008, No. 188 (as amended March 22, 2016, No.24).

177 Compulsory Insurance of Civil Liability of Entities Operating Hazardous Facilities Act dated August 15, 2008, No. 202 (as amended March 22, 2016, No.24).

178 Peculiarities of Crop Insurance Act dated January 26, 2009 No. 31 (as amended April 2, 2016, No.33).

179 Compulsory Insurance of Civil Liability of Vehicle Owners Act dated July 24, 2015 (as amended August 2, 2016, No.161).

180 Compulsory Insurance of Residential Premises against Fire and Natural Disasters Act dated July 31, 2015, No. 209.

181 Government Resolution No. 292 dated June 1, 2016 approving minimum charter capital for insurance (reinsurance) companies and brokers (as amended October 11, 2017, No.658).

- at least 30 million KGS for voluntary insurance and/or re-insurance services, except universal life insurance;
- at least 100 million KGS for voluntary or compulsory insurance or reinsurance services including universal life insurance until January 1, 2017, and from July 1, 2017 at least 150 million KGS;
- at least 300 million KGS for re-insurance services until July 1, 2017;
- at least 100 million KGS for re-insurance services within free economic zones in the Kyrgyz Republic;
- at least 1 million KGS for insurance or reinsurance broker services.

Insurance services are subject to licensing and each type of insurance services requires a separate license. 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.

Intermediary services of an insurance agent or broker involving the execution of insurance contracts on behalf of foreign insurance companies in the Kyrgyz Republic are not allowed. That said, the foreign insurance broker services are allowed in the Kyrgyz Republic upon 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.

As of Q1 2023, there were 17 insurance companies including 9 reinsurance companies operating in the Kyrgyz Republic, including State Insurance Company OJSC Jubilee Kyrgyzstan Insurance Company CJSC is the only company offering savings life insurance services.

Insurance companies offer more than 84 types of voluntary and more than 6 types of compulsory insurance services.

The rate of insurance premiums received is growing from year to year. Before 2005, it was mainly property and life insurance which

predominated; voluntary liability insurance evolved later, with the introduction in 2009 of 4 types of compulsory 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 2016, two more types of compulsory civil liability insurance were introduced: for auto-owners and homeowners against fire and natural disasters.

Most of insurance premiums account for property, general liability, compulsory civil liability and cash value insurance services

## 17. SECURITIES MARKET

### Legislation

Kyrgyz securities market legislation consists of the Civil Code, Securities Market Act of July 24, 2009, Joint Stock Companies Act of March 27, 2003, and secondary legislation.

### State Regulation

The Kyrgyz Financial Regulatory and Supervisory Service under the Ministry of Economy and Commerce of the Kyrgyz Republic (FRSS) is the competent securities market authority providing oversight over non-banking financial market, accounting and auditing services.

The FRSS, for the purposes of protecting the rights of investors and other third persons, is competent to conduct inspections of securities market participants.

The FRSS is vested with relevant powers to carry out inspections of securities market participants and is entitled to impose certain sanctions thereon and to issue licenses to professional securities market participants to provide capital market services.

### Investment in Securities

According to the information available on the KSE website, in 2022, the volume of trade amounted to 17,834,308.84 thou. soms , with a notable increase in the primary and secondary markets (almost twice as much as in 2021 (9,738,175.27 thou. soms)), although there were fewer transactions in 2022 (2,011) than in 2021 (2,032).

As of February 15, 2023, there were registered transactions in securities of Zhashtyk Invest OJSC, Stroy Dom.KG LLC and ABN Microfinance Company OJSC.

In 2023, the volume of trade amounted to 212,652 thou. soms, with the total number of transactions being 228, most of which were conducted

in the primary market (187,429 thousand soms) and the rest in the secondary market (25,223 thousand soms).

### Corporate securities sector

#### Primary market

In January 2023, in the primary market, there were conducted 75 transactions in corporate securities (stocks, bonds) amounting to 145.19 mln. soms. The greater part of this amount was received from transactions related to the placement of additional shares of Entrepreneurship Development Fund MCC OJSC amounting to 100 mln. soms at a par value of 100 soms per share.

In January 2023, there were also conducted transactions in corporate bonds amounting to 45.19 mln. soms, broken down as follows: Bank of Asia CJSC - 12.61 mln. soms (yield 12%), Microfinance Company OXUS CJSC - 3.72 mln. soms (yield 18%), ABN MFC OJSC- 19.52 mln. soms (yield 19%), Stroy Dom.KG LLC - 9.36 mln. soms (yield 21%).

#### Secondary market

In January 2023, in the secondary market, there were conducted 52 transactions for the amount of 9.21 million soms accounting for only 5.9% of the total monthly trade volume. The greater part of this amount was received from transactions in common shares of Manas International Airport OJSC amounting to 1.81 mln. soms with the par value of 800-950 soms per share. The notable part of the above amount was received from transactions in common shares of Kyrgyzstan CB OJSC amounting to 0.24 mln. soms.

There were conducted 15 transactions in corporate bonds of ABN MFC OJSC, Salym Finance MFC OJSC and Pervaya Metalbaza LLC for the amount of 7.08 mln. soms. Compared to December, the trade volume increased by 73%.

## Securities Market Professionals

According to the website of the FRSS, as of February 15, 2023, there are 4 licensed trade organizers officially registered in the Kyrgyz Republic: 1) Kyrgyz Stock Exchange CJSC, 2) Central Asia International Digital Assets Exchange CJSC, 3) Envoys Vision Digital Exchange OJSC, 4) Kyrgyzstan BTS Stock Exchange CJSC and 8 depositories: 1) Central Securities Depository CJSC, 2) Soyuz Eurasian Currency and Stock Investment Exchange OJSC, 3) Stock Exchange of Kyrgyzstan/Exchange Trading System CJSC, 4) Omega Custody CJSC, 5) Envoys Vision Digital Exchange OJSC, 6) East Gate Custody CJSC, 7) Asia Clear CJSC, 8) CA Custody OJSC.

As of February 15, 2023, securities market professionals were issued the following number of licenses: broker services (37), dealer services (31), securities registrar services (12), trust manager services (17), investment fund services (3), depositary services (8) and securities trade organizer services (4).

Professional securities market services can be provided by individuals or legal entities holding the following licenses:<sup>182</sup>

- Security registrar services;
- Depositary services;
- Broker services;
- Dealer services;
- Trust manager services;
- Securities trade organizer services;
- Investment fund services.

Only commercial organizations may professionally engage in securities market operations. Non-profit organizations may engage in certain operations in the cases established by the laws of the Kyrgyz Republic. Securities market professionals engaged in broker and (or) dealer

services may not make securities transactions with each other if any of them owns more than 25% share in the capital of another.

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<sup>182</sup> Article 40.2 of the Law of the Kyrgyz Republic "On the Securities Market" dated July 24, 2009 No. 251

## 18. PUBLIC-PRIVATE PARTNERSHIP

Public-private partnership (PPP) is a form of long-term and mutually beneficial cooperation between government and business to solve socially meaningful tasks. It is used by government to enter into a long-term contract with a private partner for the planning/(re)construction and/or operation of infrastructural facilities such as roads and railways, hospitals, schools, kindergartens, water and heat supply networks, etc., in which they share or reallocate risks, costs, benefits, resources, and responsibilities. As a result, government can solve infrastructure problems by attracting private investment and business can earn money by providing infrastructure operator services.

Over a period of 30 years since gaining independence, the Kyrgyz Republic has been facing financial and economic constraints preventing the construction, financing and operation of infrastructural facilities and adversely affecting the living standards of the people. Taking these circumstances into account, the President and Cabinet of Ministers of the Kyrgyz Republic has been undertaking active efforts over the past few years to introduce and promote PPPs in the country. Thus, it has developed the PPP policy, legal and institutional frameworks and identified potential PPP projects.

### **Public Policy and Support for PPP**

In 2016, as part of its efforts to create favourable conditions for practical implementation of PPP mechanisms in the Kyrgyz Republic, the Kyrgyz Government approved the PPP Development Program 2016-2021 designed to improve and enhance public administration, human potential, and public confidence and awareness regarding PPP.

On July 22, 2019, a new PPP Law was adopted, which entered into force on October 27, 2019. It eliminated a number of inconsistencies in the previous PPP Law 2012. On August 11, 2021, a new PPP Law was enacted, which further simplified procedures for preparation of PPP projects and selection of a private partner, and introduced, among other things, the

ability to award projects through direct negotiations.

The PPP Law sets forth general requirements for preparation and implementation of PPP projects, powers and functions of PPP regulators, rights and obligations of public and private partners, state financial and economic support, private investment guarantees, PPP project stages and procedures, conditions precedent and mandatory provisions of the PPP agreement, financial close, dispute resolution and other provisions.

In 2014, as part of its efforts to support public partners (ministries, state committees, administrative departments, state-owned enterprises, etc.) involved in the preparation of PPP projects, the Government established the PPP Promotion Trust Fund to provide financing for consultancy services related to conducting of feasibility studies, drafting of tender (bidding) documents and PPP agreements, evaluation of bids and selection of preferred bidders.

### **Legal and regulatory framework for PPP**

For private investors, a clear and predictable legal and regulatory framework is a critical factor for determination of investment decisions. The new PPP Law eliminated many inconsistencies in the previous PPP Law 2012.

According to the PPP Law, public partners can be a PPP authority jointly with a respective government or local self-government authority, or state or municipal enterprise or institution, or joint stock company that is 50 or more percent owned by the state, or, in case of small-scale projects, a respective government or local self-government authority, or state or municipal enterprise or institution, or joint stock company that is 50 or more percent owned by the state. Previously, public partners could be: one or more state executive bodies, executive bodies of local self-government, state and municipal enterprises and institutions, joint-stock companies that are 50 or more percent owned by the state, and there was no differentiation of projects by size.

Among other amendments is the introduction of provisions on small-scale PPP projects which are supposed to attract investments worth 100 million soms or less. Now, to participate in bidding, including for large-scale PPP projects, it is enough to submit one application, previously, large-scale projects required at least two bidders, otherwise, the bidding could be declared invalid.

In addition to the above, another important amendment refers to the provision on the amount of investment in PPP project that must be taken into account when determining the public authority eligible to conduct the competitive bidding. Thus, the bidding for PPP projects worth more than 100 million soms will be conducted by the PPP Authority (the Ministry of Economy and Commerce), and for PPP projects worth 100 million soms or less, by a respective government or local self-government authority, state or municipal enterprise or institution.

At the same time, for large-scale PPP projects worth more than 1 billion soms, the most simplified procedure of direct negotiations will be used, i.e. the private partner will be selected without competitive bidding. Thus, now large-scale PPP projects can be awarded through direct negotiations, provided that the applicant meets the qualification requirements. The procedure for conducting direct negotiations is set out in the Regulation on the award of PPP projects through direct negotiations, approved by the Resolution of the Cabinet of Ministers of the Kyrgyz Republic of March 25, 2022 No.160.

Another novelty introduce by the PPP Law is the ability to apply a regulatory sandbox approach to PPP projects. In particular, in order to test new innovative PPP projects in a pilot mode, the National Investment Agency under the President of the Kyrgyz Republic , as the PPP Authority, can propose a regulatory sandbox for undertaking a particular PPP project. If its proposal is accepted, the PPP Authority can submit a respective draft act to the Cabinet of Ministers of the Kyrgyz Republic. If the Cabinet of Ministers adopts the respective decision on applying the regulatory sandbox approach to the PPP project, the

PPP Authority can execute an agreement with an interested party and determine the eligible public partner. The public partner can monitor the PPP project carried out under the regulatory sandbox scheme and if it proves socially and economically effective, can submit proposals to the Cabinet of Ministers on the adoption of measures to apply this approach in the Kyrgyz Republic within the scope of this PPP project.

Thus, thanks to the regulatory sandbox approach, it is possible to significantly simplify and accelerate the process of preparation of PPP projects, bidding, negotiating, etc. by proceeding immediately to the stage of awarding the PPP agreement to the private partner.

### **Institutional Framework for PPP**

Effective and efficient institutional framework is the precondition for the successful implementation of PPP projects. Currently, an institutional framework for PPP is made up of the following public agencies:

- Ministry of Economy and Commerce of the Kyrgyz Republic, a public agency responsible for developing and implementing the state policy and development programs on PPPs, evaluating and approving the PPP projects initiated by the public partners;
- The National Investment Agency under the President, as the PPP Authority responsible for ensuring prior coordination (before approval by the public partner) of bidding documentation (RfQ, RfP, and PPPA) for PPP projects, approving the tender commission and conducting the tender for PPP projects with the value of proposed investments exceeding 100 mln. soms (the tender for projects with the value of investments below 100 mln. soms can be conducted by the public partner itself);
- Ministry of Finance of the Kyrgyz Republic, a public agency for budget policy responsible for prior coordination of bidding documentation for PPP projects to be financed by public funding in terms of a risk to public funds;
- PPP Center under the National Investment Agency under the

President, a public agency established by the Government and responsible for the promotion, implementation and support of PPP projects, as well as assisting the government and local authorities to prepare and implement the PPP projects. The PPP Center maintains a state register of PPP projects and publishes it on its website: [www.ppp.gov.kg](http://www.ppp.gov.kg)

### **PPP Projects**

The PPP project on the organization of hemodialysis services in Bishkek, Osh and Jalal-Abad was the first PPP project in the Kyrgyz Republic and the first healthcare PPP project in Central Asia.<sup>183</sup> On August 15, 2017, the country's first PPP agreement was signed between the Ministry of Healthcare, as a public partner, and Fresenius Medical Care Deutschland GmbH (Germany), as a private partner. Moreover, this project has been named among the five best healthcare projects (along with projects in the UK and Turkey) by the Partnerships Awards 2018.<sup>184</sup>

At the moment, there are a number of PPP projects underway in the public transport, culture, education, and healthcare sectors. The project on the installation of computed tomography scanners in healthcare organizations has been implemented with legal support from K&A and has been now successfully concluded. The PPP agreement between the Ministry of Health and Afey Holding selected as the private partner via tender was signed on September 14, 2022.

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<sup>183</sup> <http://ppp.gov.kg/ru/proekty2/>.

<sup>184</sup> <http://partnershipawards.partnershipevents.com/shortlist>.

## 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 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:  
[office@ka.legal](mailto:office@ka.legal) (marked "Guide to Business in the Kyrgyz Republic: Legal Aspects").

*This publication is offered for information purposes only and does not constitute official legal or any other special advice.*

## INFORMATION ABOUT KALIKOVA & ASSOCIATES LAW FIRM

### About us

Kalikova & Associates Law firm (K&A) has been providing the legal services since 2002. Over this period, K&A has grown into the leading law firm in Kyrgyzstan specializing in business law services which is also confirmed by the fact of being listed in a number of international legal directories.

Over the years of its operation, K&A 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. K&A lawyers have consulted on a number of major investment projects in Kyrgyzstan in various areas such as mining, recreation services, financing from international financial institutions, telecommunications etc.

Team is the main asset of any law firm. K&A legal team is comprised of lawyers who are graduates of leading national and international law schools, practicing as licensed attorneys at law, patent attorneys, certified PPP professionals.

Before joining K&A, lawyers gained extensive experience working for governmental, international commercial and non-commercial organizations, large companies operating in different business areas. Our lawyers completed internships in leading law firms in the United States and Europe, are members of the Bar Association of the Kyrgyz Republic, members and arbitrators of the Chartered Institute of Arbitrators in the UK, the Qinzhou Arbitration Commission in China, the Riga International Commercial Arbitration Court in Latvia, the Georgian International Arbitration Center in Georgia, the Arbitration Center in Kazakhstan and the International Court of Arbitration at the Chamber of Commerce and Industry in the Kyrgyz Republic. The K&A team includes licensed attorneys, certified PPP specialists and certified patent attorneys.

### 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:

- Anti-trust 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
- FMCG
- Hotel & Recreation
- Hydroenergy
- IT & Telecommunications
- International Organizations, Local Non-Governmental Organizations
- Mass Media
- Mining & Exploration
- Oil & Gas
- Pharmaceuticals & Beauty Products
- Tobacco & Alcohol

### Our contacts

- Address: Aurora Business Center, 7th Floor,  
1A Igemberdiev Street, Bishkek, 720005,  
Kyrgyz Republic
- Telephones: +996 (312) 66-60-60  
+996 (312) 97-68-43
- E-mail: office@ka.legal
- Web page: www.k-a.kg