



# TAXATION AND CUSTOMS ISSUES

INDUSTRY AND LEGAL UPDATE

**KALIKOVA &**  
**ASSOCIATES**  
*law firm*

*Information for effective business solutions*

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## Industry Update

September 23, 2017

### **Memorandum of cooperation signed between Azerbaijani and Kyrgyzstani customs authorities**

Azerbaijani President Ilham Aliyev signed an executive order approving the Memorandum of Cooperation in the Field of Professional Training and Continuing Education signed in Baku on June 14, 2017 between the State Customs Committee of Azerbaijan and the State Customs Service under the Government of Kyrgyzstan.

As reported by Trend Agency, after the entry into force of the Memorandum, the State Customs Committee of Azerbaijan was instructed to ensure the implementation of its provisions.

Azerbaijani Foreign Affairs Ministry was instructed to send a notice to the Government of Kyrgyzstan on the implementation of the internal procedures required for the Memorandum to enter into force.

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September 13, 2017

### **EEC offers to improve tax collection practices**

Issues of direct and indirect taxation in the countries of the Eurasian Economic Union (EAEU) were discussed at the 12th meeting of the Advisory Committee on Tax Policy and Administration under the Eurasian Economic Commission (EEC). One of the most important results of the work was the decision on the need to introduce amendments and additions to Articles 71-73 of Chapter XVII "Taxes and Taxation" of the EAEU Treaty that determines the principles of interaction of member states in the field of taxation, the

## Legal Update

October 18, 2017

### **Proposal to ratify double tax treaty between Kyrgyzstan and UK**

The Ministry of Economy announced public discussion of the bill ratifying the Treaty between the Government of the Kyrgyz Republic and the Government of the United Kingdom of Great Britain and Northern Ireland on avoidance of double taxation and prevention of tax evasion with regard to income and capital gain taxes signed on June 13, 2017 in Bishkek and the draft Government Resolution approving the aforesaid bill.

According to the explanatory note, this bill is necessary for developing a common approach to dealing with the KR and UK tax legislation. The bill is also aimed to solve common problems and tasks arising in the field of international juridical double taxation.

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October 17, 2017

### **Proposal to Ratify Treaty on Customs Code of Eurasian Economic Union**

The bill ratifying the Treaty on the Customs Code of the Eurasian Economic Union signed on April 11, 2017 in Moscow was submitted to the Parliament of the Kyrgyz Republic. The bill is intended to implement internal procedures necessary for the entry into force of the Treaty on the Customs Code of the EAEU.

According to the explanatory note, the Customs Code of the EAEU does not introduce new requirements for customs regulations. The document legitimizes the conversion of the EAEU customs administration from paper-based system to electronic one. The new code also provides a legal framework for further development of interaction on the basis of Single

procedure for paying indirect taxes in mutual trade among the countries of the Unified Energy System, as well as taxation of personal income. In addition, the issues of adjusting certain items of Annex 18 to the EAEU Treaty regulating VAT collection in free economic zones and a number of other issues, including the principles of taxation of electronic commerce, were discussed.

[www.eurasiancommission.org](http://www.eurasiancommission.org)

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September 11, 2017

## Meeting of CIS and EAEU heads of tax authorities held at Issyk-Kul

Issyk-Kul hosted two international events, the 24th meeting of the CIS Coordinating Council of Heads of Tax Authorities and the 12th meeting of the ECE Advisory Committee for Tax Policy and Administration.

The meeting of the CIS Heads of Tax Authorities Coordinating Council was chaired by the Kyrgyz State Tax Service and attended by the heads and officers of tax authorities of Azerbaijan, Armenia, Belarus, Kazakhstan, Moldova, Russia, Tajikistan, as well as representatives of the CIS Executive Committee and base institution of the CIS Heads of Tax Authorities Coordinating Council represented by the Financial University under the Government of the Russian Federation.

The meeting participants discussed the critical issues of financial and economic cooperation among the CIS member states and shared experience in e-commerce tax administration and taxpayer communication methods, contemplated the emblem of the Coordinating Committee as well as changes in the tax legislation of the CIS member states that entered into force on January 1, 2017.

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September 8, 2017

## STS and JICA to offer distance continuing education for tax officers

The State Tax Service held the first meeting of the joint coordinating committee of the STS Human Resources Capacity Development Project implemented in cooperation with the Japan International Cooperation Agency (JICA) and the expert group of Kinzai Institute for Financial Affairs Inc. (Japan).

During the meeting, the JICA expert group made a presentation on the project followed by discussion over the scope, plan and timing of the project, as well as issues related to the formation of working groups tasked with the development and implementation of measures to achieve the goals set.

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Window mechanism, which will allow the state supervisory bodies to interact through the use of information systems. This mechanism will help facilitate foreign trade by ensuring access for the customs authorities to the documents available in the information systems and confirming the information specified in the customs declarations.

The new Customs Code of the EAEU is expected to enter into force on January 1, 2018. The decision was adopted on April 28 at the EEC Council meeting attended by the vice prime ministers of the governments of the EAEU member states. Simultaneously with the code, decisions will be made to regulate the activities of authorized economic operators, rules for the movement of goods by individuals.

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October 11, 2017

## Ministry of Economy proposes draft Regulation on implementation of double tax treaties

The Ministry of Economy announced public discussion of the draft Resolution of the Government of the Kyrgyz Republic approving procedure for implementing the Treaties on Avoidance (Elimination) of Double Taxation and Prevention of Evasion of Income and Capital Gain Taxes concluded by the Kyrgyz Republic with Foreign States.

According to the explanatory note, the proposed Regulation, unlike the existing one, provides for more precise and clear rules of implementation of relevant treaties and facilitates implementation procedures and brings them into compliance with the procedures applied in the most of countries.

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October 4, 2017

## Amendments regarding administration of state social insurance contributions

The Kyrgyz Ministry of Economy announced public debate on amendments to certain acts such as the Tax Code, Administrative Liability Code, Criminal Code, the State Social Insurance Law, and the Social Fund Law.

The purpose of amendments is to create a legal framework for the transfer of state social insurance contribution administration functions from the Social Fund to the State Tax Service. Thus, the insurance contributions will be considered as taxes for administration purposes. The amendments to the Tax Code introduce the new section (SECTION XVI. State Social Insurance Contributions) whereby the insurance contributions shall be administered in the same way as taxes. Similar amendments are made to other laws.

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September 7, 2017

## **EEC to optimize customs control procedures**

The EEC Board adopted a number of decisions intended to reduce time for clearance of goods at the EAEU customs border checkpoints to few minutes by providing preliminary information to the customs authority when importing goods to the EAEU area by road, rail, air and water transport. It is assumed that entities engaged in foreign trade will be able to submit in advance to the customs authority the information necessary for verification of bans and restrictions on imports, and for proceeding with a number of customs procedures.

The first package of draft decisions to provide preliminary information is developed by the experts of the EEC Advisory Committee for communication of controlling authorities at the EAEU customs border. It also defines the persons permitted to submit preliminary information and timing for its submission. The draft documents also describe the contents of the information to be submitted to the customs authorities. That being said, the data are differentiated according to their intended purpose.

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July 20, 2017

## **EAEU customs authorities face difficulties estimating cost of imported goods**

As reported by entrepreneurs, the EAEU member states, in practice, face difficulties in evaluating the cost of imported goods due to lack of accurate information on the transaction value of goods, especially those imported from China.

According to the Kyrgyz State Customs Service, the EAEU customs legislation defines 6 methods of evaluating the cost of imported goods for tax and customs purposes. The most important is Method 1 which is based on the transaction value, i.e. the price actually paid for the goods including the cost of delivery to destination.

However, Method 1 can be applied depending on the availability of accurate information on the goods imported which is practically impossible to achieve due to lack of exchange of information on each transaction with the Chinese party.

As reported by the STS, at the end of the year the Chinese Tax Service provides with only general statistical information on exported goods without classification by types of transactions, trading regimes and participants. At present, the EEC is drafting the information exchange agreement between the Chinese customs committee and all of the EAEU customs authorities.

[www.24.kg](http://www.24.kg)

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October 4, 2017

## **Implementation of online POS cash register system pilot projects**

The Kyrgyz Ministry of Economy announced public debate on the draft Government resolution regarding the development and implementation of the online POS cash register system pilot projects.

The draft resolution is aimed to promote the Government Program on 40 Steps to Entering a New Century 2018-2023 approved by the Parliament Resolution of August 25, 2017 No.1836-V and introduces the following documents:

- Regulation on pilot projects on electronic invoicing and virtual warehousing systems;
- Procedure for completion of electronic invoices for goods sold or delivered;
- Procedure for completion of electronic invoices for work done and/or services rendered;
- Interim Regulation on pilot projects on online POS cash register system.

As noted in the explanatory note to the draft, due to state budget deficit, there is a need to attract private investment and other resources in order to implement the pilot projects on online POS cash register system.

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August 8, 2017

## **Similar tobacco and alcohol excise tax and labeling requirements to contribute to further integration of Unified Energy System member states**

The Board of the Eurasian Economic Commission (EEC) adopted a decision that the draft agreement on labeling of goods by means of identification in the EAEU prepared by the EEC Working Group should be referred to the governments of the EAEU member states for their approval. Once approved by the EEC Council, the agreement will be referred to the heads of governments of the EAEU member states for approval and signing. The agreement is expected to be signed by the end of 2017.

The EEC Board also approved the draft order of the EEC Council introducing the principles of tobacco and alcohol excise tax policies of the EAEU member states. In particular, it is proposed to empower the EEC Council with the right to approve the indicative rates of tobacco and alcohol excise taxes, as well as the range of deviation between them. The indicative rates will be calculated taking into account the exchange rate of euro to relevant national currencies of the EAEU member states used in the budget planning for the next calendar year.

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July 26, 2017

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June 16, 2017

## **Kyrgyz businessmen to complain to EEC about potential obstacles to operation of EAEU common internal market**

The EEC urges the public authorities, businessmen and citizens of the KR to inform by e-mail about any difficulties encountered at the EAEU markets. One of the important decisions of the EEC Board was to approve the recommendation whereby the EAEU member states are offered to inform all stakeholders about the possibility of informing the commission about any restrictions and barriers to the functioning of the EAEU internal markets.

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May 21, 2017

## **Kyrgyz tax authorities consider introducing analogue of Russian Google tax for foreign IT-companies engaged in e-commerce**

Foreign IT-companies offering electronic services to Kyrgyz residents are exempt from VAT in Kyrgyzstan similar to Google tax applied in Russia. As was clarified by the STS, such tax is not provided by the current legislation, except the withholding income tax. Currently, active discussions are underway on drafting the bill on taxation of electronic services. As reported by the STS, the EEC is actively working on developing similar e-commerce taxation mechanisms.

[www.tazabek.kg](http://www.tazabek.kg)

## **Kyrgyzstan ratifies double taxation agreement with Georgia**

Kyrgyz President Almazbek Atambayev signed the bill on ratification of the agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed between the Governments of Kyrgyzstan and Georgia on October 13, 2016 in Tbilisi. The bill was passed by the Parliament on June 22, 2017.

The agreement sets out the tax functions of the two contracting states taking into account their national taxation requirements.

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July 26, 2017

## **Ministry of Economy proposes amendments to Tax Code**

On July 26, 2017 the Ministry of Economy of the Kyrgyz Republic announced public debate on the bill proposing amendments to the Tax Code of the Kyrgyz Republic.

Thus, in particular, the bill proposes:

- to amend Article 32 of the Tax Code by adding the new provision whereby no tax reliefs or exemptions can be granted without prior assessment of effectiveness of tax reliefs in accordance with the Government-approved methodology;
- to empower the Government with the right to establish the procedure for conducting an on-site inspection (Article 100 of the Tax Code), as well as the procedure for charging and administering deposit payments on import of excisable alcohol products and determining the size of deposit payment;
- to establish industry-specific (functional) property tax ratios, specifically 0.2 for sanatoriums and rest homes for members of trade unions, and 0.8 for other sanatoriums, boarding houses, rest homes (Article 327 of the Tax Code).

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July 1, 2017

## **Amendments to Tax Code**

President Almazbek Atambayev signed the bill proposing amendments to the Tax Code. The bill was passed by the Parliament on May 31, 2017.

The purpose of the bill is to create a favorable tax regime for industrial enterprises operating in subsidized and socially and economically underdeveloped areas.

The bill proposes amendments to the Tax Code introducing, among other things, the concept of "exempt areas" to be determined and approved by the Government every 5 years; the 0% profit tax for exempt industries (except processing and extractive industries and manufacturers of excisable goods).

The bill signed into law was published in the Erkin Tou newspaper on July 11, 2017 No. 80 and is now effective.

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If you have any comments, please contact Maksim Smirnov at [msmirnov@k-a.kg](mailto:msmirnov@k-a.kg)

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