



*“Do not Advise the Acceptable, Advise the Best”  
Solon, Ancient Greek Philosopher*

**Amendments to the  
Tax Code according  
to the RoK Law  
No.152-V dated  
5 December 2013**



**Min Tax**



## Changes in adoption of amendments to the TC

**On 1 January 2013**, the word “November” was deleted and the word “December” was inserted in paragraph 2 of Article 3 described as “Effect of the Legislation of the Republic of Kazakhstan” of the TC:

“2. Legislative acts of the Republic of Kazakhstan introducing amendments to this Code, except for amendments on tax administration, on special features of tax reporting establishing, as well as improvement of taxpayers position (tax agents), will be adopted not later than 1 **December** of the current year and entered into force not earlier than 1 January of the year following the year of adoption.”

*Identification of a possibility to adopt these amendments later. Please note that amendments adopted after 1 December (in particular, by the Law No. 152-V dated 5 December 2013) should not lead to deterioration in the position of taxpayers (tax agents).*





## Changes in the conceptual part of the TC

**On 1 January 2013**, the definition of “dividends” (sp.14) of p.1 of art.12 of the TC) was added a formula for the determination of income received from distribution of property in liquidation of a legal entity (LE), reduction of the chartered capital, when returning a share of participation or a part of it in LE to a founder, a participant:

$I = Cr - Cs$ , where:

I- income from distribution of property;

Cr – cost of property receivable (received) in distribution of property, including that receivable (received) instead of the previously contributed;

Cs – cost of property specified in constitutive corporate documents of a legal entity, which should not exceed amount of the contribution actually made.

*Establishing a procedure of dividends calculation in the mentioned cases of LE property distribution.*





## Changes in the conceptual part of the TC

**On 1 January 2009**, Article 12 of the TC was amended as follows:

**“18-1) Confidentiality Agreement – an agreement (treaty) concluded between a subsurface user and an authorized body for survey and use of the subsurface based on which geological information is presented for the use. An agreement (treaty) for acquisition of information relates to this agreement (treaty) as well.”**

According to p.2 of Art. 327 of the TC, the liability of the payment for compensation of historic costs to the budget shall emerge from the date of conclusion of a confidentiality agreement between the subsurface user and the authorized state body for survey and use of the subsurface.

*According to the RoK Laws, geological information shall be provided by the authorized body based on the agreement that had been called a treaty (an agreement) for acquisition of information till 2007, and a confidentiality agreement – since 2007.*





## Changes in the conceptual part of the TC

**On 1 January 2014**, definition “interest” with respect to interest on leasing (sp. 39) of p.1 of Art. 12 of the TC) was amended as follows:

“39) interest – all payments as follows:

relating to transfers of assets under a financial leasing agreement, including payments to a related party\* connected with this agreement except for:

the price at which such assets are received (transferred),

payments in connection with changes in amount of leasing payments in

application of a coefficient (index) according to the terms and conditions of the financial leasing agreement,

Payments to a person who is a lessor, a related party for a lessee;”

*Limitation of interest deductions for a lessee in connection with changes in lease payments. Refinement that interest on financial lease (FL) shall be determined in availability of the FL agreement.*

*\*As a matter of fact, interest on FL is not available, should parties be not related according to p. 1-1 of art.12 of the TC.*





# Rights of Tax Service Bodies

**On 1 January 2014**, subparagraph 12) of paragraph 1 of Article 19 of the TC was amended as follows:

“12) to file claims in a court to set transactions aside, close down a legal entity under the grounds provided for by subparagraph 1) and 2) of paragraph 2 of Article 49 of the Civil Code of the Republic of Kazakhstan, as well as other claims according to the laws of the Republic of Kazakhstan.”

*Powers of tax services authorities are added a right to file claims in courts to set transactions aside.*

Accordingly, amendments were introduced to Art.115 of the TC with respect to nondeductible costs, sp.4-1) and p.3 of Art.257 of sp.3) with respect to VAT that cannot be taken as offset:

“4-1) expenses on a transaction set aside based on a court decision entered into force.”;

“3) on a transaction set aside based on a court decision entered into force.”

*P.1 of Art.157 of the RoK CC (General Part):*

*“1. Should requirements applied to the form, content and participants to a transaction be violated as well as those applied to the freedom of its expression, the transaction may be set aside under a claim of persons concerned, an appropriate public authority or a prosecutor.”*

*Grounds to set transactions aside are referred to in Art.159 and 160 of the RoK CC (General Part).*





## Refund of excess of VAT offset to a legal entity subject to liquidation

**On 1 January 2014**, the wording of paragraph 9 of Article 37 of the TC was emended as follows:

“If the liquidated legal entity prior to the date of deregistration on VAT has excess amount of Value Added Tax to be offset over the amount of accrued tax to be refunded in accordance with Article 272 of this Code, the excess shall be refunded to the liquidated entity in the manner prescribed in Articles 273, 600 and 603 of this Code.”

*Clarifying amendment due to the fact that VAT should be refunded only to the VAT payer. Corresponding amendments have been introduced to p.6 of Art. 68 of the TC and Art.256 has been supplemented by p.6 .*





## Statute of limitations on tax liability

**On 1 January 2014**, paragraph 5 of Article 46 of the TC was amended by the new unnumbered paragraph as follows:

“If a taxpayer (a tax agent) submits additional tax reporting amended with respect to transfer of loss for the period, on which the period of limitation established by paragraph 1 of this Article expires in less than one calendar year, the statute of limitations shall be extended with respect to assessment and (or) revising the assessed amount of corporate income tax payable to the budget for three calendar years.”

It is adopted, in order to extend the statute of limitations in case when a taxpayer submits additional tax reporting as amended and supplemented in the part of the transfer of losses of a company, if the statute of limitations expires in less than one calendar year.

*In accordance with the tax legislation of the RoK, a company's losses can be carried forward to the next ten years. Therefore, the limitation period is extended for three years.*







## Tax treatment for restructured organizations.

**On 1 January 2013**, Chapter 6 of the TC was amended by Article 51-2 which establishes the procedure for changing deadlines of tax liability to pay CIT by a restructured organization for up to 10 years for the tax period in which such organization implemented restructuring of liabilities to creditors in accordance with the restructuring plan approved by the court.

The restructured organization for the purposes of Article 51 - 2 of the TC determined a taxpayer (except for second-tier banks (STB) and organizations engaged in certain types of banking operations) which simultaneously meets the following conditions:

“1) A taxpayer is a resident legal entity, with state participation in the authorized capital;

2) Restructuring to fulfill obligations to creditors by such LE is implemented pursuant to the procedure established by Chapter 6-1 of the Law “On Banks and Banking Activities in the Republic of Kazakhstan”;

3) A taxpayer is an organization which is a member of the banking conglomerate acting as a parent organization, except for STB as at the date of the court decision on restructuring in order to fulfill obligations to creditors by the LE.

LE is exempt from advance payments on CIT – p.12 of Article 141 of the TC.





# The procedure to file a tax return and other matters concerning tax reporting

According to the amendment introduced to p.5 of Art. 68 of the TC **on 1 January 2015**, the deadline for placement by the authorized body on its website of information on the Forms of Tax Reporting was extended in connection with introduction of the format- logic control on the date sated above:

“5. The structure of the electronic format of tax reporting, software for drafting and filing tax returns electronically, requirements and the format logic control for the preparation of tax reporting and updating of the software shall be placed on the official website of the authorized body on a regular basis, not later than thirty days prior to the deadline for filing tax returns .”

On 1 December 2013, “authorized body” was recognized as the State body having the right to approve FTR and rules for their compiling instead of the RoK Government” – amendments to Articles 63 – 65, 67, 68 and other articles of the TC.

Deadlines to file a tax return shall be extended on the basis of the Notification, according to amendments to Article 72 and Article 71 of the TC introduced on 1 January 2014





## Article 78 “Financial leases”

Amendments to terms and conditions to recognise as the secondary leasing were introduces **on 1 January 2014** a follows:

“if the primary leasing contract provides for the annuity payment method – the total amount of leasing payments under secondary leasing contract (contracts) does not exceed the total amount of leasing payments under primary leasing contract minus the amount of leasing payments accrued as of the date of termination of the leasing contract;

if the primary leasing contract provides for the method of payment in equal shares – the price of object transferred into secondary leasing does not exceed the price of leased object under the primary leasing contract, minus the amount of leasing payments accrued as of the date of termination of the leasing contract,

And the amount of fee rate under the secondary leasing contract (contracts) does not exceed the amount of fee rate under the primary leasing contract;”

*Clarifying amendment to determine the amount of lease payments, the price of leased object in the secondary leasing subject to the accrual method applicable in the tax accounting.*





## Article 84 “Aggregate Annual Income”

Paragraph 2, which has not considered CIT received by a taxpayer as amount as income for tax purposes since 1 January 2009, was amended by sp. 9 ) for refineries and sp.10) for state-owned enterprises as follows:

“9) for the person who produces excisable goods specified in subparagraph 5 ) of Article 279 of this Code using give and take raw materials, - the amount of compensation to be received (received) against performance by such person of tax obligation to pay excise duty on excisable goods which are the product of processing give and take raw materials;

10) value of property received by a state enterprise form a state agency as: fixed assets, allocated to this enterprise based on the right of management or operational management; money for the purchase of fixed assets, which will be allocated to such enterprise based on the right of economic management or operational management.”





## Article 85 “Income to be included into Aggregate Annual Income”

**4. A taxpayer shall have the right to adjust income in accordance with Articles 131 and 132 of this Code. At that, Aggregate Annual Income taking into account adjustments under Articles 131 and 132 of this Code may have a negative meaning.**

*This is the clarifying amendment introduced on 1 January 2014, which may entail risks of reduction by tax authorities of losses for past TP (tax periods) and, possibly, additional charges of CIT on the ground that, before the introduction of amendments, AAI could only have a positive value since in negative value a loss may arise, which cannot be determined using adjustment under art. 131 and 132 of the TC .*





## Article 100 “Deductions”

**On 14 January 2014**, clarifying corresponding amendments were introduced in connection with amendments introduced to Art.37 and Art. 85 of the TC: “13. After meeting the requirements specified in paragraph 2 of Article 230 of this Code, and deregistration on the value-added tax, the excess of the value added tax to be offset over the amount of tax assessed on the value added formed as of 1 January 2009, which is not offset against future payments of value added tax, not charged to refund on turnovers taxed at a zero rate, shall be subject to deductions.

18. The taxpayer has the right to adjust deductions in accordance with Articles 131 and 132 of this Code. At that, amount of deduction as adjusted in accordance with Articles 131 and 132 of this Code may have a negative value.”

In addition, paragraph 14 specifies the amount of deductions on membership dues for private businesses, depending on whom they are paid to.





## Article 119 “Disposal of Fixed Assets”

**On 1 January 2014**, paragraph 14 of Art. 119 of the TC was amended as follows:

**“1) on fixed assets of I group used in the seasonable production, – disposal is not shown;”**

In this case, it is established that the fixed assets of I group used in seasonal production are fixed assets of I group that simultaneously meet the following conditions :

- such assets can not be used at the end of the reporting period because of the requirements specified in the technical documentation on the operation in certain temperature ranges;
- involved in the manufacturing process due to climate, natural or process conditions for a specific period of the calendar year, but not less than three months;
- in the tax reporting period used in activities aimed at generating income.





## Article 123 “Investment – Related Tax Privileges”

**On 1 January 2009**, one refined the wording of paragraph 5 of Article 123 of the TC in the part of definition of the first commissioning of the newly erected building on the territory of the Republic of Kazakhstan (a part of building) for application of preferences:

- “1) under construction by concluding a building and construction contract - transfer of a building project/object by a developer to a customer after signing the act of commissioning of the building (a part of the building) by the state acceptance commission or by the acceptance commission;
- 2) In all other cases – signing by the state acceptance commission or acceptance commission of the act of commissioning of the building (a part of the building).”







## § 5-1 “Long-Term Contracts” of section 4 of the TC

**On 1 January 2014**, in connection with the exclusion from chapter 9 of Article 79 of the TC, a new paragraph 5-1 was introduced to Section 4, “Corporate Income Tax” of the TC with new Articles 130-1 - 130-3, which establishes the procedure for determining income and expenses on long-term contracts.

In determining income using the actual method provides, an opportunity to adjust income in excess of income from long-term contract for tax purposes during the term of the contract over income under such contract as defined in the accounting of a taxpayer in accordance with IFRS and requirements of the RoK legislation on accounting and financial reporting .

In order to correspond with the amendments to the Tax Code, paragraph 1 of Article 132 of the TC was amended by subparagraph 7) and wording of paragraph 4 of Article 132 of the TC was refined.

When determining income using the completion method, the procedure for calculating the share of fulfillment of long-term contract and the determination of income for tax reporting period was refined.





## Article 133 “Reduction of Taxable Income”

**On 1 January 2014**, in paragraph 5) of Art.133 of the TC, one refined conditions for further reducing taxable income by 50 % of the amount of deductible expenses (costs) for research and scientific and technical work under Art. 108 of the TC, in connection with creation of the industrial property object:

- 1) Availability of a protection document for an industrial property issued by the authorized state body in the sphere of protection of inventions, utility models;
- 2) A conclusion of the authorized body in the field of science to confirm the amount of such expenses (costs);
- 3) Implementation of these works’ results on the RoK territory confirmed by the conclusion of the authorized body in the area of state support of industrial and innovation activities on the implementation of results of research, scientific-technical and (or) development activities in the territory of the RoK;
- 4) State registration of the protection document .

*In order to clarify the application of rules by taxpayers and simplify tax administration.*





## Article 133 “Reduction of Taxable Income”

**On 1 January 2014**, subparagraph 1) of paragraph 2 of Article 133 of the TC was amended as follows:

**2. Taxpayer has the right to reduce taxable income for the following types of income:**

**1) Fee under financial leases of fixed assets, investment property, biological assets, except for forfeit (penalty, fine);**

### *Improver*

Also, in connection with the new wording of subparagraph 39) of paragraph 1 of Article 12 of the TC, which excludes payments in connection with the size of the lease payments in the application of the coefficient (index), the definition of “fee” is excluded a right of a lessor being a taxpayer to reduce taxable income for such payments.





## Article 148 “Tax Period”

**On 1 January 2014**, Article 148 of the TC was amended as follows:

- 1) Paragraph 2 was amended by a definition, which is recognized as a day of creation of a legal entity– a day of state\* registration with the Justice body;
- 2) Other amendments on paragraphs 2 – 4 are presented by technical corrections;
- 3) Article was amended by paragraph 5 to determine a tax period on CIT according to section 4 “CIT” of the TC by a legal entity, which used during a part of the year the special tax regime for small business enterprises, and during the other part it fulfilled its liabilities on CIT following the generally established order\*\*.

*\*For taxpayers CIT - nonresident legal entities operating in Kazakhstan through a permanent establishment, the record registration shall be performed with the Justice body, but not the state one.*

*\*\* Should not be used in cases corresponding to paragraph 5 of Art. 427 of the TC.*





## Article 156 “Income Exempt from Tax”

“1. The following types of income shall be excluded from an individual’s taxable income : ...

26-1) income in the form of expenses of an employer to pay for maternity leave, leave to employees who has adopted a newborn child (ren), less the amount of social benefits in the event of loss of income due to maternity, adoption of a newborn child (ren), carried out in accordance with the laws of the Republic of Kazakhstan on compulsory social insurance - within the minimum wage set by law on the national budget and applicable as at the date of accrual of income.

The provisions of this subparagraph shall apply, should it be provided for by the terms and conditions of employment and (or) of the collective agreement or the employer act;”

*Effective from **1 January 2014** based on amendments introduced to the Labour Code for social support of people. These payment are not subject to Social tax, according to ammendments introduced to p.2 of Art.357 of the TC.*





## Article 166 “Tax Deductions”

**On 1 January 2014**, subparagraph 3) of paragraph 1 of Article 166 of the TC was introduced refinement stating that when determining income of an employee taxable at the source of payment, amount of voluntary pension payments contributed for its own benefit shall be deducted, should they be paid in accordance with the RoK legislation on pension benefits.

The new RoK law “On Pension Benefits in the RoK” dated 21 June 2013 No. 105-V provides for, without limitations, regulating issues of legal relationship related to voluntary pension contributions, saving and receipt of pension payments. Therefore, the related amendments were introduced to Article 166 of the TC.

*Sp.6) of Art.1 of the RoK Law “On pension benefits in the RoK”*

*“6) Voluntary pension contributions - money that are paid by investors on their own initiative in a single PSF, and (or) the voluntary pension savings fund in favor of the beneficiaries of pension payments in the order established by the legislation of the Republic of Kazakhstan and the agreement on pension provision by voluntary pension contributions;”*





## Article 192 “Income of Non-residents from Sources in the Republic of Kazakhstan”

“1. The following types of income shall be recognized as income for a non-resident from sources in the Republic of Kazakhstan:

6) income from assignment of rights to claim debt to a resident or non-resident, who carries out business in the Republic of Kazakhstan through a permanent establishment, for the taxpayer who assigned the right of claim.

At that, amount of such income is determined in the form of positive difference between the cost of right of claim at which the rights were assigned and the cost of claim receivable from a debtor as of the date of assignment of the right of claim, according to the source documents of a taxpayer;

7) income from assignment of rights to claim debt from a resident or non-resident who carries on business in the Republic of Kazakhstan through a permanent establishment, for the taxpayer who acquires claim rights;

At that, amount of such income is determined in the form of positive difference between amount payable by a debtor on the claim of principle debt as of the date of assignment of the right of claim and the cost of obtainment of the right of claim;”

*Clarifying amendment introduced on 1 January 2014 by analogy with the procedure of income determination provided for by Art. 91 of the TC for income from assignment of the right of claim.*





## Article 237 “Date of commission of sales turnovers”. Paragraph 1 amended **on 1 January 2014.**

1. Unless otherwise is provided for by this Article, the effective date of the turnover on sale shall be:

1) The date, according to the civil law of the Republic of Kazakhstan, of delivery of such goods to the recipient (the buyer) or a person specified by the buyer, including a person engaged in delivery of the goods, if the goods are transferred to the recipient (the buyer), or to a person specified by him at the place of goods location under the terms and conditions of the contract;

2) If the terms and conditions of the contract provide for obligations of the supplier (the seller) to deliver the goods:

The date of transfer of goods to a person delivering the goods specified by the supplier (the buyer), including an authorized representative;

The date of shipment of goods on a transport vehicle of the supplier (the seller);

3) In all other cases – the date on which the supplier (the seller) and the recipient (the buyer), being the parties to the contract, sign a document proving the fact of transfer of the goods, which is prepared according to the law of the Republic of Kazakhstan on accounting and financial reporting.”

*Clarifying amendments were introduced to the wording, taking into account different terms and conditions of goods supply to the buyer under concluded agreements (contracts).*







## Article 237 “Date of Commission of Sales Turnovers”. Paragraphs 1-1 and 2 amended **on 1 January 2014**

**1-1.** Unless otherwise provided for by this Article, the date of commission of turnovers related to sale of work, services shall be the date when work was performed, services were provided.

At that, the day of performing work and providing services shall be recognized to be the date of signature, specified in:

Act of completion of work performed, services provided;

Document (except for an invoice), confirming the fact of performing work, providing services, issued in accordance with the laws of the Republic of Kazakhstan on accounting and financial reporting.

**2.** When providing services related to: granting a credit (loan, microcredit), carriage of passengers, luggage, cargo luggage and mail using railway transport, granting assets into temporary ownership and use, banking operations, the following out of the dates that comes the first shall be recognised as a date of commission of the sale turnover:

1) the date of issue of an invoice with value-added tax;

2) the date of receipt of each payment (irrespective of the form of settlement);

3) the date when performance of work, provision of services is recognized in the accounts.”

*The wording was specified taking into account specific features of providing and recording results of separate types of services, with partial inclusion of some clauses of former paragraph 8 of Article 237 of Tax code.*





## Article 237 “Date of Commission of Sales Turnovers”. Paragraph 9 amended **on 1 January 2014**

“9. Where work, services are purchased from a non-resident that is not a value-added tax payer in the Republic of Kazakhstan and that does not carry out activity through an affiliate, representation, a date of commission of the purchase turnover shall be the date of signature stipulated in:

- act of performed work, rendered services;
- document confirming the fact of performing work, providing services issued in accordance with the legislation of the Republic of Kazakhstan on accounting and financial reporting or legislation of the Republic of Kazakhstan concerning railway transport.”

*The date of committing a purchase turnover is again determined according to the date of signature of the act of completion of work, services or a document confirming the fact of performance of work, provision of services. The clause determining the date of committing a purchase turnover according to the earliest date specified in the mentioned documents was removed.*





## Article 237 “Date of Commission of Sales Turnovers”. Amendments effective from **1 January 2014**

Article was supplemented by paragraphs 2-1, 2-2, 10 as follows:

“2-1. When selling electricity, water, gas, communications, utilities, services related to carriage of passengers, luggage and cargoes by air transport, services related to carriage of shipments through the trunk pipeline system, the date of commission of a sales turnover of work, services shall be the last day of the calendar month in which work was performed and services were provided.

2-2. When performing work, providing services for which documents are issued in accordance with the legislation of the Republic of Kazakhstan on railway transport, the date of commission of sales turnovers of work, services shall be the latest date specified in the document, confirming the fact of performance of work, provision of services.

10. In case that documents stated in this Article, with the exception of those stated in paragraphs 2 and 2-1 of this Article, specify more than one date, then the latest of the specified dates shall be deemed as the date of signature of the document.”;

*Paragraph 2-1 corresponds provisions of Article 237 of Tax code with the existing and proposed procedure for issuing invoices based on the results of a calendar month.*

*Paragraphs 2-2 and 10 separate the provisions of the current Article 237 of Tax code with a change to selecting the latest date of performing work, providing services.*





## Article 237 “Date of Commission of Sales Turnovers”. Amendments effective from **1 January 2012**.

Article 3 of the Law “On Introducing Amendments to Certain Legislative Acts of RoK concerning Taxation Issues” dated 5<sup>th</sup> December 2013 No152-V:

“Article 3. The effect of paragraph 8 of Article 237 of the Code of the Republic of Kazakhstan “On Taxes and Other Obligatory Payments to the Budget” (Tax Code) shall be suspended from 1 January 2012 till 1 January 2015.

*The amendment moves the effective date of the norm related to determining the date of commission of sales turnovers on prepayments from 1 January 2012 to 1 January 2015. In this regard, paragraph 7 of Article 263 of Tax code was supplemented by the clause which prescribes to issue invoices, in cases provided for by paragraph 8 of Article 237 of TC, not earlier and not later than five business days following the date specified in the signed document confirming performance of work and provision of services as per paragraph 1-1 of Article 237 of Tax code.*





## Article 238 “Amount of Taxable Turnover”

**Since 1 January 2014**, the Article has been supplemented by paragraph 9-1 as follows:

“9-1. When vehicles purchased by a legal entity from individuals are sold to an individual, a sales turnover shall be determined as a positive difference between the selling price and the acquisition cost of the vehicles”.

This helps to avoid situation where an individual bears VAT liabilities on the entire selling price of the vehicle purchased by a legal entity from another individual without VAT.

The following clarifying amendments were introduced:

- in paragraph 7 of Article 238 of Tax code in respect of excise not included in the taxable turnover of the manufacturer of petrol, diesel fuel, **with effect from 1 January 2009**;
- in paragraph 10 of Article 238 of Tax code in respect of taxable turnover when assets are transferred to finance lease in the event of an early repayment of lease payments since **with effect from 1 January 2014**.





## Approval of applying 0 rate of VAT and exemption from Excise tax (Articles 243, 244, 244-2, 244-3, 276-13, 288)

With effect from 01.01.2014, the following Articles were supplemented by adding new paragraphs: Article 243 - paragraph 3, Article 244 - paragraph 4, 244-2 and Article 244-3 - paragraph 2-1, paragraph 4 of Article 276-13 - sub-paragraph 5-1), Article 288 - paragraph 2-2, whereby the following shall be presented as one of the documents justifying the right to use 0 VAT rate:

- instead of a copy of the customs declaration printed on paper, declarations for the goods as an electronic document for which there is a document in the information systems of the tax authorities notifying customs authorities of the actual export of goods is also considered to be a document confirming export of goods.

*Simplifies circulation of paper documents, in particular, with a view to improving tax administration.*





## Article 256. “Value-Added Tax To Be Offset”

**With effect from 1 January 2014,** the new paragraph 6 was added:

“6. The amount of value-added tax to be offset shall be reduced to the extent of the amount referred to deductions as per paragraph 13 of Article 100 of this Code, in the event that a taxpayer registered in the state taxpayers' database, after being removed from registration records for value-added tax, has applied paragraph 13 of Article 100 of this Code.”

*Aims to reduce VAT offset, in the event that the taxpayer, after being removed from VAT registration, deducted the excess of VAT offset available as at 1 January 2009 which was not offset against future VAT payments and not claimed for refund on turnovers taxed at 0 rate, in accordance with paragraph 13 of Article 100 of Tax code.*





## Article 259. “Adjustments of Amounts of Value-Added Tax To Be Offset, Relating to Doubtful Obligations, When Writing Off Obligations”

4. In the case that a liability on purchased goods, work, services on the date when a supplier who is value-added tax payer was recognized as bankrupt was not satisfied fully or partially, the exclusion from the offset of value-added tax previously included into the offset, except for value-added tax for which adjustments were made in accordance with paragraph 1 of this Article, shall be carried out in the tax period in which the decision of the bodies of justice was taken for the exclusion from the National Register of Business Identification Numbers of the supplier who is the value-added tax payer recognized as bankrupt.

*Specified wording put into effect from 1 January 2013.*







## New wording of paragraph 7 of Article 263 “Invoice”

**With effect from 1 January 2014,** “7. Unless otherwise specified by this Article, an invoice shall be issued not earlier than the date of making a turnover and not later than five business days after the date of making a sale turnover.

Payers of value-added tax shall have the right to issue invoices:

when selling electric energy, water, gas, communications services, utility services, railway carriage as well as transport shipment services, services of an operator of wagons (containers), services related to carriage of shipments via the trunk pipeline system, services related to granting a credit (loan, micro credit), as well as banking transactions which are subject to value-added tax, - upon calendar month results not later than the 20th day of the month following a month on whose results the invoice is to be issued.

when assets are transferred to a finance lease in respect of the accrued amount of interests – based on the calendar quarter results not later than the 20th day of the month following a quarter based on whose results the invoice is to be issued;





## New wording of paragraph 7 of Article 263 “Invoice”

“...  
...

Payers of value-added tax shall have the right to issue invoices:

...  
...

when selling goods, work, services under contracts concluded for a period of one year or longer, to persons stated in paragraph 1 of Article 276 of this Code, – based on the calendar month results, not later than the 20th day of the month following the month on whose results the invoice is to be issued.

When the goods are exported under the export customs procedure, an invoice shall be issued not later than the date of committing a sales turnover.

***From 1 December 2015:*** In the case provided for by paragraph 8 of Article 237 of this Code, an invoice shall be issued not earlier and not later than five business days after the date specified in the signed document referred to in paragraphs two, three of part 2 of paragraph 1-1 of Article 237 of this Code.





## Article 272. “Refund of Value-Added Tax”

**With effect from 1 January 2009**, paragraph 3 of Article 272 is stated in the new wording which differs from the existing one by an additional paragraph related to sub-paragraph 2) of paragraph 3 of Article 272, which specifies one of the conditions for the refund of an excess of VAT offset:

"2) sales turnover taxed at the zero rate, for the tax period in which zero-rated turnovers were committed, and for which the declaration contains a claim for refund of the excess value-added tax, comprised not less than 70 percent of the total taxable sales turnover.

Provisions of this paragraph shall not apply to taxpayers who have the right to apply the simple procedure for refund of excess value-added tax as provided for by Article 274 of this Code.”

**From 1 January 2014**, Article 272 was supplemented by paragraph 5:

“5. The rules for refund of excess value-added tax shall be approved by the Government of the Republic of Kazakhstan.”





## Amendments in the section 9 “Excises”

**Since 1 January 2014**, the List of Excisable Goods was supplemented as follows:

“The authorized body in the field of regulation of commercial activities shall specify an **additional list of imported goods, which shall be subject to excise taxes depending on the country of origin**, in accordance with the procedure established by the Government of the Republic of Kazakhstan.

The rates of excise taxes for the goods specified in the supplementary list of imported goods determined in accordance with the second part of this Article shall be established by the Government of the Republic of Kazakhstan on the basis of proposals made by the authorized body in the field of regulation of trade activities. ”

**Since 1 January 2014**, excise rates were increased for alcohol products of 2208 nomenclature item, tobacco items, however according to Article 8 of the Law No 152-V, excise rates shall be suspended **till 1 January 2016** for lines 1-18 of sub-paragraph 1) of paragraph 4 of Article 280 and different rates shall be established for each year until 2016.

**Since 1 January 2014**, some clarifications were introduced in respect of levying excise on excisable goods referred to in sub-paragraph 5) of Article 279 of Tax code (petrol (except for aviation petrol), diesel fuel), which are the product of processing customer-furnished raw materials (crude oil), **since 1 January 2009** in sub-paragraph 2) of paragraph 4 of Article 280, Article 283 and 287 of Tax code.





## Article 315. “Timing for Payment of the Signature Bonus”

2. Upon expansion of the contract area, the signature bonus shall be paid to the budget at the place of location of the taxpayer within thirty calendar days from the date when respective amendments concerning such expansion were introduced to the subsurface use contract, in accordance with the laws of the Republic of Kazakhstan.

3. Upon receipt of a written permission for the right of subsurface use for exploration or production of commonly occurring minerals used in construction (reconstruction) and repair of public roads, railways and waterworks, the signature bonus shall be paid to the budget at the place of location of the taxpayer within thirty calendar days from the date of receipt of such permit in accordance with the laws of the Republic of Kazakhstan on Subsurface and subsurface use.

**Since 1 January 2014** *establishing deadlines for the payment of signature bonus upon expansion of the contract area, as well as within the framework of issuing permits for the right of subsurface use for exploration and (or) extraction of commonly occurring minerals.*





## Article 332. “The Tax Base” for TPUM on petroleum

**Since 1 January 2009**, new wording of sub-paragraph 5) of paragraph 2 of Article 332 of Tax code is effective in respect of specifying natural gas (NG) used for own production needs (OPN):

“Unless otherwise established by this sub-paragraph, for the purpose of this section the natural gas used for own production needs shall mean the natural gas produced by the subsurface user under the subsurface use contract and used under this contract in accordance with documents approved by the authorized body in the sphere of oil and gas:

when carrying out subsurface use operations, as fuel used in oil treatment;

for technological and domestic needs;

for heating oil at the wellhead and when transporting oil from the place of production and storage to the point of transshipment into the trunk pipeline and (or) to another mode of transport in accordance with the approved design documents;

for producing electric energy used in conducting subsurface use operations;





## Article 332. “The Tax Base” for TPUM on petroleum

**With effect from 1 January 2009, “Unless otherwise established by this subparagraph, for the purpose of this section the NG used for OPN shall mean the NG produced by the subsurface user under the subsurface use contract and used under this contract in accordance with documents approved by the authorized body in the sphere of oil and gas:**

**for reinjection to subsurface in the volume provided for by approved design documents, with the exception of reinjection to subsurface provided for by paragraph 4 of this Article;**

**for the purposes of gas-lift (mechanized) method of operation of producing oil wells in the amounts stipulated by design documents approved by the authorized body in the field of oil and gas.**

**Natural gas used for own production needs shall also mean the natural gas produced by the subsurface user under a subsurface use contract and used for reinjection into the subsurface in order to maintain reservoir pressure in the oil and gas zones within the framework of a different subsurface contract of the given subsurface user to the extent provided for by approved design documents;”**





## Article 332. “The Tax Base” for TPUM on petroleum

**Since 1 January 2009** in Article 332 of Tax code:

**1) paragraph 2 was supplemented by sub-paragraph 5-1):**

**“5-1) associated gas used in the production of liquefied petroleum gas in the volume corresponding to the liquefied petroleum gas sold in the domestic market of the Republic of Kazakhstan. At the same time, such volume of liquefied petroleum gas (LPG) shall be approved by the authorized body in the field of oil and gas, and shall be deemed mandatory for sales in the domestic market of the Republic of Kazakhstan in accordance with the laws of the Republic of Kazakhstan in the field of gas and gas supply.”;**

**2) additions were introduced to paragraph 2-1 as follows:**

**“2-1. The amount of natural gas used for own production needs and(or) associated gas used for production of liquefied petroleum gas, in accordance with sub-paragraphs 5) and 5-1) of paragraph 2 of this Article shall mean the actual volume of such used natural and (or) associated gas within the limits of amounts specified in the documents approved by the authorized body in the field of oil and gas.”**







## Article 334. “The Procedure for Determining the Value of Crude Oil, Natural Gas Liquids and Natural Gas” for TPUM on petroleum

**Since 1 January 2009**, paragraph one and sub-paragraph 2) of paragraph 5 of Article 334 of Tax code are set out in the wording establishing provisions on associated gas:

“For the purposes of assessment of the tax on production of useful minerals, the value of the natural gas sold by the subsurface user in the domestic market of the Republic of Kazakhstan and (or) used for own industrial needs, as well as associated gas used for producing liquefied petroleum gas, shall be determined in accordance with the following procedure:»;

“2) when using the extracted associated gas for producing liquefied petroleum gas in accordance with conditions, stated in sub-paragraph 5-1) of paragraph 2 of Article 332 of this Code, and (or) using the extracted natural gas for own industrial needs – as the product of actual volume of:

associated gas used in production of the liquefied petroleum gas, and the manufacturing cost of a product unit determined in accordance with international financial reporting standards and requirements of the law of the Republic of Kazakhstan on accounting and financial reporting, increased by 20 percent;...”





## Article 365. “Taxpayers”

**“3. Unless otherwise is established by this Article, the following persons shall not be payers of the Tax on Transport Vehicles:**

...4) participants in the Great Patriotic War and persons equated to those, persons awarded with orders and medals of the former Union of the SSR for selfless labour and irreproachable military service in the rear during the years of the Great Patriotic War, and also persons worked (served) for not less than 6 months from the 22nd June 1941 to the 9th May 1945 and not awarded with orders and medals of the former Union of the SSR for selfless labour and irreproachable military service in the rear during the years of the Great Patriotic War, in respect of one motor transport vehicle which is a taxable item for tax;

5) disabled with regard for owned side-cars and cars – in respect of one motor transport vehicle which is an taxable item for tax;

6) Heroes of the Soviet Union and Heroes of Socialist Labour, persons having the ‘Khalyk Kaharmany’ and ‘Kazakstannin Yenbek Yeri’ titles, those who are awarded with the Order of Glory of the three degrees and the order ‘Otan’, mothers having many children awarded with the ‘Mother Heroine’ title, awarded with the pendants ‘Altyn Alka’, ‘Kumys Alka’ – in respect of one motor transport vehicle which is recognized as a taxable item for tax; ...

**With effect from 1 January 2014, the norm provided for by sub-paragraphs 4) – 6) of paragraph 3 of this Article shall not apply to persons referred to in those sub-paragraphs, in cases when such motor vehicles are passenger cars with engine size over 4,000 cubic centimeters, which were registered (re-registered) with the authorized body after 31 December 2013.”**





## Article 367. “Tax Rates”

**Since 1 January 2014**, paragraph 1 shall be supplemented by part two and the Article shall be supplemented by adding paragraph 2-1 similarly to paragraph 2 for passenger cars listed below:

"For passenger cars with engine volume over 3,000 cubic centimetres, manufactured (produced or assembled) in the Republic of Kazakhstan after 31 December 2013 or imported to the territory of the Republic of Kazakhstan after 31 December 2013, the tax shall be assessed using the following rates, established in monthly reference indices:

No	Taxable Item	Rate, MRI
1	2	3
1.	Passenger cars with the engine volume (cm <sup>3</sup> ):	
	over 3,000 up to 3,200 inclusive	35
	over 3,200 up to 3,500 inclusive	46
	over 3,500 to 4,000 inclusive	66
	over 4,000 to 5,000 inclusive	130
	over 5,000	200





## Article 387. “Adjustment of Basic Tax Rates”

**Since 1 January 2014**, Article 387 of Tax code is supplemented by paragraph 6:

“6. In respect of parcels of land intended for construction and not being used for appropriate purposes, or used in violation of the laws of the Republic of Kazakhstan, the base tax rates established by Article 381 of this Code shall be increased tenfold from the date when the authorized body delivered a written notice to the owner or land user concerning the need to use the land parcel according to the intended purpose and (or) the need to eliminate violations of the law of the Republic of Kazakhstan, except for rates set forth in the lines 23 - 26 of the Table presented in Article 381 of this Code.

The procedure for determining land parcels not used for appropriate purposes or used in violation of the laws of the Republic of Kazakhstan, for purposes of part one of this paragraph, shall be established by the Government of the Republic of Kazakhstan.

The procedure for determining the land parcels and presentation of information on such land parcels by the authorized state bodies to the tax authorities shall be approved by the authorized body. “

*Introduction of increased tax rates on lands that are not being developed within two years after they are granted. According to Article 5 of the Law No152-V liabilities under paragraph 6 of Article 387 of Tax code arise upon expiry of a 2 years' period from 01.01.2014 – effective from 2016.*





## Articles 406 "Tax Base", 408 "Tax Rates" of Tax code concerning the Tax on Property of Individuals

**With effect from 1 January 2014**, Article 406 of the Tax code doubles the basic KZT price per square meter of houses, summer cottages in national currency for the cities of Almaty, Astana, Aktau, Aktobe, Atyrau, Karaganda, Kyzylorda, Kokshetau, Kostanay, Pavlodar, Petropavlovsk, Taldykorgan, Taraz, Uralsk, Ust-Kamenogorsk, Shymkent, as well as the cities of regional and district level.

**With effect from 1 January 2014**, Article 408 of the Tax code increases the tax rate on personal property by 2 times for houses, summer cottages with value up to KZT 75 million inclusive for sub-paragraphs 1 - 11 of Article 408, less than by 1,5 times for houses, cottages with value more than KZT 75 million up to KZT 350 million inclusive for sub-paragraphs 12 - 13 of Article 408, and by more than 2.9 and 3.9 times for houses, summer cottages with value, respectively, over KZT 350 million to KZT 450 million inclusive, over KZT 450 million in relation to tax rates stated under sub-paragraph 13 of Article 408 of Tax code.





## Article 428. “Requirements for the Application of a Special Tax Regime”

**Since 1 January 2014**, New wording of paragraph 2 of Article 428 is effective:

“2. In the case of transition to the general procedure, subsequent transition to a special tax regime shall be allowed not sooner than after one calendar year of using the general procedure.”

*The amendment reduced the period after which the reverse transition is possible from the generally established to a special tax regime, from two calendar years to one calendar year.*





## Articles 528 "General Provisions", 530 "Levy Rates" in respect of the Levy for the Placement of Outdoor (Visual) Advertising

**Since 1 January 2014**, Article 528 of Tax code was supplemented by paragraph 1-1, which establishes a definition of outdoor (visual) advertising for the purposes of the Tax Code as advertising placed in:

- "1) in the capital city, cities of the republican and regional significance;
- 2) on means of transport registered in the capital city, cities of the republican and regional significance;
- 3) on objects of stationary placement of advertising in the right-of-way of public roads of the republican and regional significance, with the exception of those placed on objects of stationary advertising placement in the right-of-way of public roads of the republican and regional significance within the limits of the territory of cities of district significance, villages and settlements.“

Appropriate amendments were introduced to paragraph 3 of Article 530 of Tax code, where in the phrase "for advertising objects placed in the right of way of public highways of local significance" the word "**local**" was replaced with "regional". The amendments correspond to modifications in the RoK Law "On Advertising" setting the differentiation of powers in respect of establishing rates between the TC and decrees of the RoK Government.





## RoK Law No 508-II dated 19.12.2003 “Concerning Advertising” Article 11. Outdoor (visual) advertising

As per paragraph 6 of Article 1 of RoK Law No 152-V since 1 January 2014 placement of outdoor (visual) advertising shall be carried out in the form of posters, stands, light panels, billboards, stelas, banners and other means, in the manner prescribed by paragraphs 2-7 of this Article.

*Stela was added to the list of types of visual advertising.*







## Article 581. “Duties of Banks and Other Organizations Carrying Out Separate Types of Banking Transactions”

**Since 1 January 2014**, a number of amendments was introduced to Article 581, in particular:

“3) when receiving payment documents for the payment of taxes and other obligatory payments to the budget, social assessments, transfers of obligatory pension contributions and obligatory vocational pension contributions, to supervise the accuracy of the identification number specified in accordance with the rules for the formulation of identification numbers and details of the authorized state body.

In case that the identification number specified in the payment document does not correspond to the records of the authorized state body or when it is not available, banks or organizations carrying out certain types of banking operations shall refuse acceptance of such payment document;”





## Article 584. “Acceptance of Tax Forms”

A number of amendments was introduced to paragraph 5 of Article 584:

**“5. Tax forms, except for tax registers, shall be deemed not to be presented to the tax service authorities, where:**

***from 1 December 2013:*** 1) they are not in compliance with the tax forms established by the authorised body in accordance with this Code, or

***from 1 January 2015:*** 7) there are violations of requirements of format and logic control in the structure of an electronic format of a tax reporting form;

***from 1 January 2014:*** 8) there are any violations of requirements of paragraph 1 of Article 72 of this Code regarding the manner of filing tax returns in the case of extension of tax reporting submission deadlines;

***from 1 January 2015:*** 9) there are any violations of requirements of paragraph 2 of Article 270 of this Code regarding the submission, simultaneously with the VAT declaration, of registers of invoices for goods , works and services purchased and sold during the tax period, unless otherwise provided by this Code.”





## Article 587. “Results of In-House Supervision”

**Since 1 January 2014**, paragraph 1 of Article 587 of Tax code is set out in a new wording:

“1. In case that any violations are discovered according to the results of an in-house supervision, the following shall be issued:

on violations with a high degree of risk, a notice for elimination of violations found as a result of in-house supervision, with the attached description of violations identified;

on violations with a medium degree of risk, a notice concerning violations found as a result of in-house supervision, with the attached description of violations identified.

Notification on violations identified by the results of in-house control , shall be sent to the taxpayer (tax agent ) within the period specified in sub-paragraph 7) of paragraph 2 of Article 607 of this Code, for information only and is not binding.

The form of notice of violations identified by the results of in-house control, shall be established by the authorized body.

The provisions of this paragraph shall not apply to violations with a low degree of risk identified by the results of in-house control .”





## Article 625 “General Provisions” in respect of the risk management system

In connection with amendments to paragraph 1 of Article 587, paragraph 4 of Article 625 shall be supplemented by sub-paragraph 1-2):

"4. The risk management system shall be used in the exercise of the tax supervision, in particular for the following:

- 1) selection of taxpayers (tax agents) for conducting tax audits;
- 1-1) confirmation of the amount of the excess value-added tax to be refunded;

*since 1 January 2014:* 1-2) determining the degree of a risk of violation identified according to results of in-house supervision.

At that, the criteria for evaluating the degree of risks, referred to in subparagraphs 1) and 1-2) hereof, shall be confidential (official) information, except the criteria approved by the authorized body in conjunction with the competent authority on entrepreneurship;

- 2) establishing rights to simple procedure for refund of amounts of excess value-added tax, subject to provisions of Article 274 of this Code."





## Article 627. “Definition, Types and Forms of Tax Audits”

Amendments were introduced to paragraphs 7 and 9 of Article 627 of Tax code:

“7. Chronometric inspection — inspection as carried out by tax authorities for the purpose of establishing actual income of a taxpayer and actual costs related to activities aimed at earning income, of the period when the inspection is taking place.

*since 1 January 2014:* The decision to conduct a time study shall be made by the tax authority at the location specified in the registration information of the taxpayer, and (or) at the location of the taxable item and (or) item related to taxation.”;

“9. Tax audits shall be subdivided into the following types:

2) non-scheduled- tax audits which are not specified in sub-paragraph 1) of this paragraph, including those conducted:

...

Non-scheduled audits specified in sub-paragraph 2) of this paragraph, may be performed for the previously audited period *since 1 January 2014:* based on the decision of a tax body in cases specified by this Article.”





## Article 627. “Definition, Types and Forms of Tax Audits”

**9-1. Based on the decision of the tax authority at the location specified in the registration records of the taxpayer, and (or) at the location of the taxable item and (or) item related to taxation, tax audits shall be conducted on the following issues:**

- registration by the tax authorities;**
- availability of cash registers;**
- availability of equipment (devices) intended to make payments using payment cards;**
- availability and authenticity of excise labels and control marks, availability and authenticity of accompanying bills for alcoholic products, petroleum products and biofuels, availability of a license, permission to sell ethanol, patent, registration card referred to in Article 574 of this Code;**
- compliance with the procedure for the use of cash registers;**
- compliance with the rules for licensing and conditions of production, storage and marketing of certain types of excisable goods;**
- implementation of an ordinance passed by the tax authority for the suspension of cash expenditure transactions.**

*Given that most of these tax audits (spot-checks) on specific issues are held at the location of taxable items, the tax authorities are allowed at the local level to decide on the appointment of such tax audits.*





## Section 21. Appealing Results of Tax Audits and Acts (Omission of Act) of Official Persons of the Tax Service Authorities

**With effect from 1 January 2014**, amendments were introduced to Articles 666, 667, 671, 677, 681 of the Tax Code , in respect of ordering issues related to appealing the outcome of a tax audit conducted by the authorized body, determining the deadlines for filing the appeal, the sending and delivery of the decision on the appeal to the taxpayer ( tax agent):

- 1) thus, paragraph 2 of Article 666 of the TC specifies that appeal directly to the competent authority shall be filed on the notice of the results of the tax audit , drawn up by the authorized body, and not by other tax service authorities in respect of the audit held with participation of officials of the competent authority;
- 2) paragraph 1 of Article 667 and paragraph 1 of Article 677 of the TC specifies that the appeal shall be filed within thirty working days from the day following the date when the notice was delivered to the taxpayer (tax agent)/following the date when the taxpayer (tax agent) received the decision on the results of reviewing the appeal;
- 3) paragraph 1 of Article 671 and paragraph 1 of Article 681 of TC state that the decision on the appeal shall be sent by registered mail with a delivery note or handed to the taxpayer (tax agent) against a receipt;
- 4) Article 677 of TC was supplemented by provisions related to the date of filing an appeal to an authorized body and the date of receipt of the authorized body's decision.





*“Do not Advise the Acceptable, Advise the Best”*  
*Solon, Ancient Greek Philosopher*

**Thank you for your  
attention!**



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