



**AZERBAIJAN AMENDS TAX LAWS RELATING TO CFCS, TAX HAVENS, TRANSFER PRICING**

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The Government of Azerbaijan has introduced significant changes to the Tax Code, which will become effective 1 January 2022. The changes include measures focused on tackling tax evasion and broadening the tax base, including new controlled foreign corporation (CFC) rules and transfer pricing amendments.

The updated rules also provide for certain business and individual tax benefits and exemptions, as well as improved tax administration.

**Measures Aimed at Tax Evasion and Broadening Tax Base**

One of the prominent changes made to the Tax Code is the incorporation of the CFC rules, which are intended to prevent the artificial diversion of profits from controlling companies to CFCs.

Profits of CFCs incorporated in a [tax haven](#) will be taxed in Azerbaijan if certain conditions are met. First, an Azerbaijani resident itself or along with an interdependent resident or non-resident possesses directly or indirectly more than 50 percent of the voting rights or charter capital of the foreign corporation or has the right to obtain more than 50 percent of the profits of that corporation. Second, the corporate income tax actually paid by the CFC is two or more times less than the Azerbaijani corporate income tax (20 percent). Third, more than 30 percent of the annual income of the CFC is comprised of: interest received from financial assets; royalties received from intellectual property; income from the alienation of shares and participatory interests; income from a financial lease; income from insurance, banking, and other financial operations; and/or income from enterprises that receive income from goods and services that do not create any economic value.

When the profits of the CFC become subject to tax in Azerbaijan, to avoid double taxation, the corporation is entitled to a tax offset for the tax paid on that profit.

Certain types of income received from the CFC shall not be included in the taxable income. Dividends received from the CFC are not included. In addition, if the resident enterprise is a subsidiary of the CFC, the taxable profit related to the resident enterprise from the generalized (consolidated) profit of the CFC is not included. Finally, income received through the permanent establishment of the CFC in Azerbaijan, as well as income received from an enterprise established and taxed in Azerbaijan, are not included.

The other amendment introduced for combating tax evasion and broadening the tax base is the expansion of the definition of Azerbaijani source income with respect to payments made to tax havens.

Direct and indirect payments made by residents and permanent establishments of non-residents, as well as resident individuals not registered with the tax authority, to persons established (registered) in tax havens and their branches or representative offices in other jurisdictions, as well as to bank accounts opened in tax havens, are considered income from an Azerbaijani source and are subject to 10 percent withholding tax.

Certain types of payments to tax havens are not considered Azerbaijani source income. These include the repayment of the principal amount of a loan (excluding the interest); payments to correspondent accounts

opened by resident banks; payments for e-services by individuals, who are not registered with the tax authority; payments related to the acquisition of debt securities; interest and dividend payments in connection with investments made in Azerbaijan and deposits placed with financial institutions in Azerbaijan; salaries and pensions of residents of tax havens; and payment of fees and other charges to the competent state bodies, as well as payments for obtaining permits and certificates.

The transfer pricing rules have been revised to include, inter alia, transactions between a resident and a related non-resident, as well as the resident's branch, representative office, and other units in other jurisdictions. The revised rules also include transactions between a resident and non-resident or a resident's permanent establishment in Azerbaijan and non-residents, if the non-residents carry out operations in goods traded on international commodity exchanges and/or the total income of the resident or non-resident's permanent establishment in Azerbaijan exceeds AZN 30 million (USD 18 million) in the relevant tax year and the value of transactions with each non-resident amounts to more than 30 percent of total income.

### **Tax Benefits and Exemptions**

The exemptions mainly touch upon the value-added tax. The following exemptions from the VAT will apply, among others: import and sale of books, as well as import of paper intended for production of books; special software used for military purposes; import and sale of hybrid cars with a production term of three years and an engine capacity not exceeding 2,500 cubic centimeters (for a period of three years from 1 January 2022); and import of second and third level electric chargers for electric cars (for the period of three years from 1 January 2022).

### **Tax Administration**

The changes harshened financial sanctions for a failure to submit reports and other information.

The financial sanction for a failure to submit a tax report, as well as a letter in the form established by the tax authority for profits tax declaration by interrelated parties for transactions exceeding AZN500,000 (USD294,000), is increased from AZN500 to AZN2,000 (USD294 to USD1,176). The same financial sanction applies for the submission of inaccurate information.

For a failure to submit information or submission of inaccurate information on imported goods, a financial sanction at the rate of two or five percent from the invoice value will apply.

### **CASH REGISTERS AND VAT REFUND UPON MEDICAL SERVICES**

The State Tax Service explains the expanded scope for implementation of cash registers and VAT refunds.

Settlements for services of hotels and similar accommodation facilities, medical institutions, barbershops, beauty salons, and centers of cosmetology shall be carried out through cash registers real-time connected to the electronic information system of the tax authority.

The VAT refund will now cover medical services.

Conversely, the refund mechanism is no longer available for purchases of automobiles, alcoholic beverages, and tobacco products.

**PLEASE CONTACT US FOR ANY QUESTIONS AND FURTHER  
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