

## **TAX REFORMS AND CONSIDERATION OF APPEALS**

### **Tax Reforms Plan for 2016**

Instructive Order No 2257, dated 4 August 2016, of the President of the Republic of Azerbaijan approves guidelines for reforms of taxation during 2016.

According to the guidelines, the “tax free” system that was introduced earlier this year in July at the airports will be implemented at other border checkpoints.

To improve communication between taxpayers and tax authorities and to exact and better forecast tax liabilities, the rules of advance tax determination (“advance tax ruling”) are planned to be implemented.

The Instructive Order also proposes changes in relation to office (desk) tax audits. Despite the term of an office tax audit being legally prescribed to not exceed one month, such audits in practice can be taking longer. According to the proposed change, if the tax authorities fail to complete an office tax audit within 30 days of the submission by the taxpayer of the tax return, no office tax audits can run in relation to such returns.

Another change is proposed in relation to implementation of the “whistleblow” (“public awareness to prevent cases of tax evasion”) mechanism. Pursuant to the mechanism, persons informing tax authorities of tax evaders would be awarded.

Another novelty that will be introduced to prevent cases of tax evasion and minimise tax risks of taxpayers is the implementation of a system of “voluntary tax disclosure” that is widely implemented in international practice. Under the system of “voluntary tax disclosure”, no additional measures, interest, or financial sanctions are implemented against the taxpayers who voluntarily inform the tax authorities of the cases of tax evasion.

As is known, the Azerbaijani tax system incentivises persons engaged in agricultural production. Among the guidelines of tax reforms in 2016 is the direction to determine borderline between the notions of an agricultural production and of an agricultural processing.

Along with the proposed revisions highlighted above, simplification of procedures for administration of international treaties on the avoidance of double taxation, expanding the base of taxation to the digital economy, implementation of electronic invoicing system, conclusion of intergovernmental agreements for the automatic exchange of financial information, and implementation of the “common reporting standard” (CRS) used in the international practice are also among the proposed revisions.

### **Exemption of Transshipment of Transit Cargo**

Under Law No 318-VQD, dated 30 September 2016, of the Republic of Azerbaijan (and the President’s Instructive Order of 21 October 2016), the Tax Code of Azerbaijan is amended to exempt from the value added tax (VAT) the transshipment in direct relation to transit cargo. The exemption applies with credit, *i.e.*, through a zero per cent rate VAT.

## **Document Control at State-Owned or -Controlled (through Controlling Shareholding) Entities for Appeals by Individuals**

Decree of 23 June 2016 of the President of Azerbaijan approved the Rules of Document Control at State and Municipal Bodies, State- or Municipality-Owned or -Controlled (through Controlling Shareholding) Entities, and Budget Institutions in Relation to Appeals by Citizens. Under the Rules, the rules of document control at state-owned or -controlled (through controlling shareholding) entities are same as those at state bodies and budget institutions.

### *Acceptance and Registration of Appeals of Individuals*

An appeal by an individual must be registered in the registration and control card the same day the appeal is filed. If, upon the registration of an appeal, incompleteness of or damage to the documents enclosed with the appeal is discovered, the document control service registers the appeal by preparing an act and informs the appellant of same in three business days. Electronic appeals by citizens are also registered by the document control service by their printouts (except for organisations that run an electronic document control system).

A citizens' written appeal must contain the following information:

- a name of the subject considering the appeal or full name and title of its officer (except where an appeal is sent to an electronic mail of the officer); and
- a full name and address (or workplace) of an appellant. Related to this, Law of the Republic of Azerbaijan on Consideration of Appeals of Citizens, to which the Rules refer, establishes the requirement for the name and legal address of an appealing legal entity and, if the appeal is filed through a representative, full name and address of the representative.

If the above information is not added, the appeal is considered anonymous. Under Sub-Section 6.4 of the Law on Consideration of Appeals of Citizens, anonymous appeals are not accepted or considered by subjects and their officers considering appeals.

### *Consideration of Appeals and Periods to Respond to Them*

A response to an appeal must be prepared by an organisation in the state language and in writing (including in electronic format) or verbally. A response letter to a written appeal is prepared and sent to an appealing individual on the entity's letterhead paper signed by its chief executive or another competent officer.

If an individual applies verbally, a response upon his/her consent can likewise be delivered verbally. If a verbal response is impossible or the response requires further investigation, the appeal is accepted.

If an appeal is delivered electronically, the response is likewise delivered electronically or in writing (based on the request by the appellant to his/her mailing address). If the response is delivered electronically, it must be certified by an electronic signature.

A period to consider an appeal starts counting from the date of registration of the appeal by the document control service. An appeal must be considered in 15 business days, or, where additional discovery or investigation is required (excluding certain exceptional cases), in 30 business days. An appeal is left without consideration where a reasoned response on the substance has been delivered to the appellant three times during a year or if the appeal is considered anonymous. An appellant is informed that his/her application is left without considered in five business days.

## *Receiving Citizens*

A chief executive or another competent officer of an organisation must receive individuals at least once a month. Individuals sign up for the reception by applying to the reception service or registering at the official Internet site. Individuals can sign up electronically by providing a document proving their identity or details of their identity or, if available, an electronic signature.

Appeals submitted during a face-to-face meeting with an officer are registered and responded to in the manner set out above. Unless an additional investigation is required, verbal appeals are likewise responded verbally.

Periods to keep documents in relation to appeals by citizens are determined by each organisation for at least five years considering also the requirements of Law of the Republic of Azerbaijan on National Archives.

### **Telephone Appeal Lines**

The Rules of Filing, Accepting, Registering, and Responding to Verbal Appeals through Telephone Appeal Lines are approved by Resolution No 339, dated 1 September 2016, of the Cabinet of Ministers of Azerbaijan.

The Rules apply to state-owned or -controlled (through controlling shareholding) entities and sole proprietors as they apply to budget and certain other organisations.

An appeal by a telephone line must be made during weekdays and business hours. An appellant must present his/her name, patronymic, and last name, address, and contact details. If an appeal cannot be responded straightaway, an additional investigation is carried out and the response is delivered in 15 business days and, where additional discovery or investigation is required, in 30 business days.

Appeals in relation to the information comprising state secrecy pursuant to Law of the Republic of Azerbaijan on State Secrecy or information otherwise protected under law are not considered. Document control services of subjects keep electronic carriers for registration of appeals filed through telephone appeal lines for two years.

**PLEASE CONTACT US FOR ANY QUESTIONS AND FURTHER INFORMATION AT:**

**BM Morrison Partners**  
Tel: (994 12) 497 19 14; 497 19 15  
Fax: (994 12) 497 19 13  
E-mail: [info@bmlawaz.com](mailto:info@bmlawaz.com)

---

©2016 BM Morrison Partners. All rights reserved.

---

\* Information in our updates does not constitute legal or other professional advice.