

AMENDMENTS TO TAX LAWS BECOME EFFECTIVE

On 1 January 2016, amendments to the Tax Code of the Republic of Azerbaijan become effective.

The amendments have, among others, introduced new definitions to the Tax Code, raised value added tax registration and deregistration thresholds, increased some taxes (mining tax), made significant reforms in connection with the simplified tax, increased the level of flexibility by refreshing the rules for a choice between the simplified and value added tax, and strengthened tax supervision functions of the tax authorities.

Along with the aforesaid, some amendments have been introduced to the Administrative Violations Code of the Republic of Azerbaijan and the Criminal Code of the Republic of Azerbaijan stiffening sanctions applicable to taxpayers breaching tax laws.

New Definitions

Building, trading, public catering and time of commencement of construction-installation works are among the terms introduced to the Tax Code.

Value Added Tax (VAT)

Whilst previously persons, whose turnover for any month within 12 consecutive months' period exceeded AZN120,000 were to register as VAT payers, now this threshold increased to AZN200,000. This will allow persons, whose operations do not exceed the amount of AZN200,000 to continue their activities as simplified taxpayers.

The threshold for the VAT deregistration has been raised from AZN60,000 to AZN100,000.

The amendments augmented the list of goods, services and works exempt from the VAT by adding the following to the previous list in the Tax Code:

- goods brought by humanitarian organisations, as well as legal entities and individuals with the consent of the relevant executive authority as humanitarian aid;
- goods brought by state, government and international organisations for charity purposes;
- goods brought by individuals, which are not intended for production or commercial purposes;
- goods imported into a free economic zone (with the exception of excisable goods); and
- fixed assets, which are the objects of a [financial] leasing agreement.

Mining Tax

The rates of mining tax have increased twofold.

Simplified Tax

Previously, persons engaged in construction of buildings were subject to both the VAT and simplified tax. According to the amendments, these persons can, now, be registered either as VAT payers or simplified taxpayers, at their own choice. To this end, they need to inform the tax authority about the taxation method

(VAT or simplified tax) within 30 (thirty) days of the commencement of construction. The selected method cannot be changed until completion of the construction.

The amendments subjected the sale of residential and non-residential buildings to the simplified tax with the exception of the following:

- a sale of a residential premise of an individual where the individual is registered and has been residing for five years;
- presenting immovable as a gift, an aid or an inheritance by family members;
- a compensation paid to individuals in connection with expropriation of an immovable property for state needs;
- a compensation paid to legal entities in connection with expropriation of an immovable property for state needs;
- a transfer of assets between spouses; and
- a transfer of assets between ex-spouses in the course of divorce.

The tax from a sale of residential and non-residential premises must be withheld by a notary certifying the transaction and remitted to the state budget within one business day.

Whilst the amendments provide for concessions to the sellers of residential buildings, no concessions are provided to the sellers of non-residential buildings.

The simplified tax' basic rate to be payable for each square meter of a residential building is AZN15. The tax for each square meter of a non-residential building is AZN22.5. This rate should be multiplied by relevant coefficient applicable in each region where the immovable is located.

According to the amendments, persons engaged in trading and/or public catering may register as simplified taxpayers irrespective of their turnover. This notwithstanding, tax rates applicable to these persons will differ depending on their turnover. Tax rate for persons engaged in trading activity, whose turnover exceeds AZN200,000 in a year, will be six per cent, whereas the same for persons engaged in public catering will be eight per cent.

Trading is defined as a business activity contemplating the sale of goods, except for the sale of self-produced goods. Public catering is a business activity purporting provision of food in the places where the food is prepared or at delivery.

Persons with turnover below AZN200,000 are subject to the simplified tax at four per cent in Baku and at two per cent in the regions, respectively. Persons engaged in trading and/or public catering, whose turnover is more than AZN200,000, if registered as simplified taxpayers, are exempt from the VAT, income (individuals), profits (corporate income), and property taxes.

Sanctions Applicable to Taxpayers

A failure to pay taxes in a timely manner may result in a decision of a court prohibiting a person from leaving the country.

According to the amendment made to the Administrative Violations Code, a sale of excisable goods, except for tobacco products, under AZN50 for cash is an administrative wrong and is fined in the amount of AZN100. Under the Presidential Decree on *Regulation of Turnover of Excisable Goods in Republic of Azerbaijan*, dated 7 December 2015, excisable goods include potable alcohol, all types of alcoholic beverages, beer (except for non-alcoholic beer) and other beer-containing beverages, and tobacco products.

The Criminal Code contemplates a criminal liability when the abovementioned violations are committed in gross amount. A sale of excisable goods between AZN50 and AZN1,000, except for retail of tobacco products, is punishable with fine between AZN1,000-2,000 or correction works for up to one year or imprisonment for up to one year. A sale of excised goods, except for tobacco products above AZN1,000, is punishable with correction works for up to two years or imprisonment for the same period.

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