



**Trade with Kazakhstan: practical aspects of import/export, currency control, document flow, and transactions with affiliated entities**

Webinar 20.07.2023



# Interaction with non-resident legal entities in Kazakhstan

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1. Import/Export of Goods: Practical Aspects
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# 1. IMPORT/EXPORT OF GOODS: PRACTICAL ASPECTS



## IMPORT

The main difference between importing from third countries and importing from the Eurasian Economic Union (EAEU) lies in the customs clearance procedure and the payment of customs duties and fees.

### **For imports from third countries, the following are of crucial importance:**

- ✓ Transfer of ownership rights - this affects the valuation of goods' costs.
- ✓ Delivery terms.
- ✓ Availability of a complete set of documents: contract, invoice, documents for additional expenses (delivery, broker services), and customs declaration (Goods Customs Declaration - GCD).

### **For imports from EAEU countries, the following are of crucial importance:**

- ✓ Transfer of ownership rights - this affects the valuation of goods' costs.
- ✓ Delivery terms.
- ✓ Availability of a complete set of documents: contract, commercial invoice (with mandatory indication of the EAEU Commodity Code - TNVED codes), documents for additional expenses (delivery, broker services), international consignment note (CMR), border crossing certificate (with mandatory indication of the type of transport, transport number, and driver's details).

# 1. IMPORT/EXPORT OF GOODS: PRACTICAL ASPECTS



## IMPORT

The timely receipt of documents is essential due to the requirement of submitting reports to the tax authority (declaration on import and payment of indirect taxes) and the statistical office (1-TS) in the Republic of Kazakhstan.

**In Kazakhstan, the submission of the mentioned reports and the functioning on the electronic document flow portal (IS ESF) heavily relies on the validity of digital signature keys, specifically, the timely renewal after the expiration date (validity period - 1 year).**

# 1. IMPORT/EXPORT OF GOODS: PRACTICAL ASPECTS



## COMMERCIAL INVOICE FOR GOODS

In Kazakhstan, since there is an electronic document flow system, starting from April 1, 2023 (after a pilot project), it is mandatory to issue a "Commercial Invoice for Goods" (CIG) for imports and exports of goods. Therefore, it is necessary to provide the required documents for issuing the CIG before crossing the border.

**Failure to provide or late submission of the CIG can result in penalties as follows (Article 283-1, part 1 of the Administrative Code of the Republic of Kazakhstan):**

- For individuals: 5 times the Monthly Calculation Index (MCI).
- For small business entities or non-commercial organizations (NCOs): 10 times the MCI.
- For medium-sized business entities: 20 times the MCI.
- For large business entities: 30 times the MCI.

**For repeated violations, the penalties will be doubled** (Article 283-1, part 2 of the Administrative Code of the Republic of Kazakhstan).

**The CIG must be properly filled out, and any discrepancies, inaccurate representation of quantities (volumes) of goods, or incorrect indication of the personal identification number code for petroleum products, tobacco products, ethyl alcohol, alcoholic beverages, and biofuels may result in penalties as follows (Article 283-1, part 3 of the Administrative Code of the Republic of Kazakhstan):**

- For individuals: 10 times the MCI.
- For small business entities or NCOs: 20 times the MCI.
- For medium-sized business entities: 40 times the MCI.
- For large business entities: 50 times the MCI.

# 1. IMPORT/EXPORT OF GOODS: PRACTICAL ASPECTS



## EXPORT

**When exporting goods, the following factors are of crucial importance:**

- ✓ Transfer of ownership rights.
- ✓ Delivery terms.
- ✓ Availability of a complete set of documents: EAEU Commodity Codes (TNVED codes) for the goods, method of dispatch, route (confirming the crossing of borders), and for timely submission of the complete set of documents - Commercial Invoice for Goods (CIG), Electronic Shipping Form (ESF), waybill, and consignment note.

For companies that are VAT payers, when exporting to EAEU countries, an important point is the timing of providing the importer with the Application for Import and Indirect Taxes Payment and the Notification of Confirmation of Indirect Taxes Payment. Within 180 calendar days, the company must confirm the justification for applying the 0% VAT rate, or the VAT amount becomes payable to the budget for the tax period corresponding to the date of shipment of goods.

Similarly, for exports, it is necessary to provide the required documents for issuing the CIG before crossing the border.

Furthermore, when exporting goods, it is essential to check the goods against the EAEU Commodity Codes for inclusion in the "exclusion list."

The "exclusion list" is a list of goods imported into the territory of the Republic of Kazakhstan from third countries that are not members of the Eurasian Economic Union (EAEU) and subject to reduced customs duties rates. Kazakhstan, upon joining the World Trade Organization (WTO) in December 2015, automatically took on commitments for certain goods in the "exclusion list," for which the import duty rate is lower than the customs duties within the framework of the EAEU.

# 1. IMPORT/EXPORT OF GOODS: PRACTICAL ASPECTS



## EXCLUSION LIST

For Kazakhstan, this would mean that it is more advantageous for importers to bring goods included in the exclusion list into the territory of the Eurasian Economic Union (EAEU) through the territory of Kazakhstan. However, this puts other EAEU member states in an unfavorable position as they cannot set similar low customs duty rates for importers. This situation contradicts the principle of equal rights among EAEU member countries and may undermine the rights of domestic (Kazakhstani) producers.

**To address these contradictions, as Kazakhstan simultaneously became a member of the World Trade Organization (WTO) and the EAEU, several international agreements were signed in 2015. Kazakhstan committed to:**

- ✓ Establish accounting for goods included in the exclusion list that are imported into the country using reduced customs duty rates.
- ✓ Prohibit the export of such goods from the territory of Kazakhstan to other EAEU member countries.

These measures are intended to protect the interests of other EAEU member states and prevent dumping by Kazakhstani exporters. As a result, goods from the exclusion list can be imported into Kazakhstan:

- ✓ At low WTO rates with a ban on further export to the EAEU territory.
- ✓ At standard EAEU rates without restrictions on further export to other EAEU countries.

**When exporting goods to EAEU countries, if the goods are included in the exclusion list, it is mandatory to certify the Electronic Shipping Form (ESF) at the tax authority of registration before sending the goods. For this purpose, a request for certification is submitted to the tax authority. If the goods are not included in the exclusion list, there is no need to certify the ESF or provide additional documents.**



## 2. SERVICES – DOCUMENT FLOW



**When paying income to a non-resident of Kazakhstan, a Kazakhstani company is obliged to withhold and pay Corporate Income Tax (CIT) for the non-resident. This obligation is regulated by Article 645 of the Tax Code of the Republic of Kazakhstan. In this case, the Kazakhstani company acts as a tax agent.**

*According to Article 645 of the Tax Code of the Republic of Kazakhstan, income from sources in Kazakhstan received by a legal entity non-resident whose activities do not create a permanent establishment in Kazakhstan is subject to CIT withholding at the source of payment without any deductions.*

***Based on Paragraph 1 of Article 644 of the Tax Code of the Republic of Kazakhstan, the following are considered as non-resident income subject to CIT:***

- Income from the sale of goods within the territory of Kazakhstan.
- Income from the performance of work and services within the territory of Kazakhstan.
- Income from the provision of managerial, financial, consulting, marketing, auditing, legal services outside Kazakhstan.
- Income in the form of dividends received from a legal entity resident in Kazakhstan.
- Income in the form of remuneration.
- Income in the form of royalties.
- Income from leasing property located within the territory of Kazakhstan.
- Income from providing services for international transportation, etc.

## 2. SERVICES – DOCUMENT FLOW



### THE RATES OF WITHHOLDING INCOME TAX AT THE SOURCE OF PAYMENT

*According to Article 646 of the Tax Code of the Republic of Kazakhstan, non-resident income from sources in Kazakhstan is subject to taxation at the source of payment at the following rates:*

1. Incomes defined by Article 644 of this Code, except for incomes specified in subparagraphs 2) to 5) of this paragraph - 20%.
2. Insurance premiums under insurance contracts - 15%.
3. Insurance premiums under reinsurance contracts - 5%.
4. Income from providing services for international transportation - 5%.
5. Income from capital gains, dividends, remuneration, royalties - 15%.

**However, Kazakhstan has concluded conventions for the avoidance of double taxation, which, when complying with the requirements of the legislation, allow for the application of benefits or exemptions from CIT payment.**

## 2. SERVICES – DOCUMENT FLOW



### THE RATES OF WITHHOLDING INCOME TAX AT THE SOURCE OF PAYMENT

**Important! The CIT rate will always be 20% when acquiring services from non-residents registered in offshore zones, countries with preferential taxation, and with whom the Republic of Kazakhstan has not signed a convention..**

**Also, regardless of the country specified in the contract, managerial, financial, auditing, consulting, engineering, marketing, and legal services are always considered to be provided within the territory of the Republic of Kazakhstan and are subject to taxation at the source of payment.**

Royalties deserve a separate mention – the use or right to use copyright, including software and intellectual property objects. The CIT rate at the source of payment for non-resident income from royalties is 15% and is not subject to full exemption. With the provision of necessary documents, and if the cost of services includes the CIT amount at the source of payment for non-resident income from royalties, the CIT rate will be 10%.

## 2. SERVICES – DOCUMENT FLOW



### MANDATORY DOCUMENTS REQUIRED FOR THE APPLICATION OF THE CONVENTION

1. Contract;
2. Document confirming residency (tax residency certificate) apostilled with all data completed on the apostille and the certificate itself, or a paper copy of an electronic document confirming the residency of the non-resident, posted on the website of the competent authority of the foreign country;
3. Notarized copies of constituent documents or an excerpt from the trade register (shareholder register) or any other similar document provided by the legislation of the country in which the non-resident is registered, indicating the founders (participants) and major shareholders of the non-resident legal entity.

**All contracts with non-residents and certificates of tax residency of the supplier must be translated into the Russian language. The translation of the tax residency certificate must be notarized.**

**Important!** The tax agent is obliged to submit a copy of the document confirming the residency of the non-resident, the ultimate (final) recipient (owner) of the income to the tax authority at the location no later than 5 calendar days from the date established for the submission of tax returns for the 4th quarter (March 31 of the following year after the reporting period).

In case of untimely submission of residency certificates to the tax authority or if the certificates do not meet the requirements of the Tax Code of the Republic of Kazakhstan, the company is not entitled to apply the Convention for the avoidance of double taxation independently. It leads to the obligation to pay the corporate income tax and penalties for the entire period of delay.

## 2. SERVICES – DOCUMENT FLOW



### STEP-BY-STEP INSTRUCTIONS FOR REQUESTING RESIDENCY CERTIFICATES:

**1. Check the presence of the counterparty's country in the list of countries under international agreements for the avoidance of double taxation.**

**2. Check the presence of the counterparty's country in the list of member countries of the Hague Convention of 5th October 1961**

**If the country is not listed, diplomatic or consular legalization is required.**

**Legalization of documents is carried out as follows:**

1. Within the territory of Kazakhstan – by the Consular Service Department of the Ministry of Foreign Affairs of Kazakhstan;
2. Outside the territory of Kazakhstan – by Kazakhstan's diplomatic missions abroad.

**If the country is listed, and the Certificate is provided in paper form, request an apostille for the Certificate**

- 1) The apostille must be issued by the higher authority of the country that issued the residency certificate. For example, if the certificate is issued by the Tax Authority of the resident country, the apostille is signed by the Ministry of Finance.
- 2) The apostille must confirm the signature of the authorized person who signed the certificate, their position, and the authenticity of the signature.

**If the country is listed, and the Certificate is provided in electronic form**

- 1) The electronic residency certificate must contain a link to the website confirming the authenticity of the electronic certificate. For example, for Latvia's certificates, it is <https://eds.vid.gov.lv/ref>.
- 2) The electronic residency certificate must be assigned a number or code. For example: the code of Latvia's resident certificate Personas kods: 40\*\*\*3345.

**Period:**

- 1) The certificate of residency must indicate the period, for example - for 2023, from 01.01.2023 to 31.12.2023..
- 2) If the certificate indicates the status as of a specific date, and residency is confirmed for the period starting from January 1, 2023, up to that specific date, then it is necessary to request a certificate with the indicated period for 2023 or from 01.01.2023 to 31.12.2023.
- 3) If the certificate itself does not specify the period (year) during which the non-resident is recognized as a resident in their country, but there is an outgoing number on the certificate, for example, from January 27, 2023, then the non-resident is considered a resident for the entire year 2023. That is, in the case when the date on which the certificate is issued is not specified.

## 2. SERVICES – DOCUMENT FLOW



### CONDITIONS FOR APPLYING THE CONVENTION AND MINIMIZING TAX RISKS

1. The Contractor guarantees that they do not have any representations, branches, or other permanent establishments in the territory of the Republic of Kazakhstan.
2. The Contractor guarantees that, under this agreement, they are the ultimate (actual) recipient of the income. The Contractor is not an agent (commissioner) in the agreement and does not act on behalf of a principal (principal).
3. In accordance with the "Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting" (commonly known as "MLI"), the Contractor declares that:
  - They are not a related party to the Client.
  - They enter into the agreement without creating opportunities for non-taxation or reduced taxation by means of tax avoidance or tax evasion.

**Also, when acquiring works and services from a non-resident by a Kazakhstan company, there is an obligation to pay VAT for the non-resident at a rate of 12% and similarly act as a tax agent.**

# 3. TRANSACTIONS WITH RELATED PARTIES



Starting from January 1, 2023, expenses not subject to deduction include costs incurred for the acquisition of management, consulting, advisory, auditing, design, legal, accounting, attorney, advertising, marketing, franchising, financial (excluding remuneration expenses), engineering, agency services, royalties, and intellectual property rights from a non-resident related party, according to subparagraph 23 of Article 264 of the Tax Code of the Republic of Kazakhstan.

## **Related parties are considered to be:**

- ✓ Entities specified in paragraph 2 of Article 1 of the Tax Code;
- ✓ A legal entity that, together with another legal entity, forms a group of companies;
- ✓ Individuals and/or legal entities when the relationships between such entities have characteristics of interdependence, regardless of the conditions specified in this section. In the event of the taxpayer's non-recognition of interdependence, such recognition is established by the court based on a claim by the tax authority.

A group of companies is understood as a structure of commercial and non-commercial organizations, including a parent company and companies whose shares, stakes, or other equity instruments are directly or indirectly owned by such parent company.

**The taxpayer has the right to reduce the taxable income by expenses incurred for the acquisition of management, consulting, advisory, auditing, design, legal, accounting, attorney, advertising, marketing, franchising, financial (excluding remuneration expenses), engineering, agency services, royalties, and intellectual property rights from a non-resident related party, to an amount not exceeding 3 percent of the taxable income (according to subparagraph 3-2 of paragraph 1 of Article 288 of the Tax Code of the Republic of Kazakhstan).**

### 3. TRANSACTIONS WITH RELATED PARTIES



For the purposes of this Code, affiliated persons are recognized as individuals and/or legal entities that have relationships that meet one or several of the following conditions:

1. One entity is recognized as an affiliated entity of another entity in accordance with the laws of the Republic of Kazakhstan.
2. One entity is a substantial participant in another entity.
3. The entities are connected by a contract, according to which one of them has the right to determine decisions made by the other.
4. A legal entity is under the control of a substantial participant or an official of another legal entity.
5. A substantial shareholder, substantial participant, or an official of one legal entity is a substantial shareholder, substantial participant, or an official of another legal entity.
6. A legal entity is jointly controlled by a third party together with another legal entity.
7. The person, together with its affiliated persons, owns, uses, disposes of 10% or more of the share in the capital of a legal entity or legal entities specified in subparagraphs 2) - 6) of this paragraph.
8. A person is an official of a legal entity specified in subparagraphs 2) - 7) of this paragraph, except for an independent director of a joint-stock company.
9. A person is a close relative or an in-law (brother, sister, parent, son, or daughter of the spouse) of a substantial participant or an official of a legal entity.

A substantial participant refers to a share in the assets of a legal entity, excluding joint-stock companies, which constitutes 10% or more.

**Control over a legal entity is understood as the ability to determine decisions made by the legal entity.**





## Currency Control in Kazakhstan

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2. Capital movement transactions - requirements, reports, responsibility for violations
3. Import-export currency control
4. Account numbers for accounts in foreign banks
5. Combating income legalization

# 1. CURRENCY OPERATIONS BETWEEN RESIDENTS AND NON-RESIDENTS. GENERAL PROVISIONS



## Foreign currency forms:

- Foreign currency
- Securities and payment documents denominated in foreign currency
- Unnumbered securities issued by the Republic of Kazakhstan
- Affine gold in ingots
- National currency, securities, and payment documents denominated in the national currency, in cases of transactions between residents and non-residents of Kazakhstan, and between non-residents of Kazakhstan, as well as their export (transfer) from Kazakhstan or import (transfer) into Kazakhstan
- Unnumbered securities issued by residents of Kazakhstan, in cases of transactions between residents and non-residents of Kazakhstan, and between non-residents of Kazakhstan, as well as their export or import into Kazakhstan.

## Foreign currency operations:

- Operations related to the transfer of ownership and other rights to currency values, as well as the use of currency values as a means of payment
- Import, transfer, and transfer of currency values to Kazakhstan, as well as export, transfer, and transfer of currency values from Kazakhstan
- Transfer of currency values under trust management
- Transfer of currency values based on a contract for brokerage services.

# 1. CURRENCY OPERATIONS BETWEEN RESIDENTS AND NON-RESIDENTS. GENERAL PROVISIONS



**For the purposes of currency regulation and currency control, the following are considered residents of the Republic of Kazakhstan:**

- Citizens of the Republic of Kazakhstan, except for citizens permanently residing in a foreign country based on rights granted in accordance with the legislation of that foreign country.
- Foreigners and stateless persons permanently residing in Kazakhstan based on a residence permit.
- Legal entities (excluding international organizations) established in accordance with the legislation of the Republic of Kazakhstan, with their location in Kazakhstan, as well as their branches (representative offices).
- International organizations with their location in Kazakhstan if their status as residents is determined by an international agreement governing their establishment.
- Branches of foreign financial organizations that are authorized by the laws of Kazakhstan to engage in banking and/or insurance activities within the territory of Kazakhstan.
- Branches (representative offices) of foreign non-financial organizations that qualify as permanent establishments of such foreign non-financial organizations in Kazakhstan according to the Tax Code, with the exception of branches (representative offices) of foreign non-financial organizations recognized as non-residents of Kazakhstan.

# 1. CURRENCY OPERATIONS BETWEEN RESIDENTS AND NON-RESIDENTS. GENERAL PROVISIONS



**For the purposes of currency regulation and currency control, the following are considered non-residents of the Republic of Kazakhstan:**

- Individuals who are not residents according to the definition above.
- Legal entities and organizations that do not form a legal entity, established in accordance with the legislation of foreign countries, with their location outside the territory of the Republic of Kazakhstan, as well as their branches (representative offices) in Kazakhstan, conducting activities that do not result in the formation of a permanent establishment of a non-resident in accordance with the Tax Code.
- Branches (representative offices) of foreign non-financial organizations, for which the non-resident status under the currency legislation of Kazakhstan is established by agreements concluded on behalf of Kazakhstan with foreign organizations and that entered into force before the Law "On Currency Regulation and Currency Control" came into effect.
- International organizations, unless otherwise determined by an international agreement governing their establishment.
- Diplomatic and other official representations of foreign states.

# 1. CURRENCY OPERATIONS BETWEEN RESIDENTS AND NON-RESIDENTS. GENERAL PROVISIONS



Currency transactions between residents of the Republic of Kazakhstan are prohibited, except for cases specified in the Law "On Currency Regulation and Currency Control." Transactions between residents of the Republic of Kazakhstan are conducted in the national currency - tenge.

Currency transactions between residents and non-residents are conducted in the national currency and/or any foreign currency.

Currency transactions between non-residents on the territory of the Republic of Kazakhstan are carried out without restrictions in accordance with the currency legislation of the Republic of Kazakhstan.

## 2. CAPITAL MOVEMENT TRANSACTIONS



Capital movement transactions - operations related to the transfer of ownership and other rights to currency values, conducted between residents and non-residents of the Republic of Kazakhstan, including:

- ✓ Financial loans;
- ✓ Participation in the capital;
- ✓ Transactions with securities, shares, and derivative financial instruments;
- ✓ Acquisition of ownership rights to real estate, excluding movable property considered immovable or classified as such under the laws of Kazakhstan;
- ✓ Acquisition of fully exclusive rights to intellectual property objects;
- ✓ Transfer of money and other property to fulfill obligations of a joint activity participant, as well as in trust management, trust;
- ✓ Transfer of money and financial instruments to professional participants of the securities market performing foreign exchange operations on behalf of clients, to accounts for the storage and recording of clients' money;
- ✓ Gratuitous transfer of money and other currency values.

## 2. CAPITAL MOVEMENT TRANSACTIONS



### REQUIREMENT FOR ACCOUNTING REGISTRATION OF A FOREIGN EXCHANGE AGREEMENT IN THE NATIONAL BANK OF THE REPUBLIC OF KAZAKHSTAN

**Registration is required for a foreign exchange agreement related to the movement of capital, within which the following is stipulated:**

1. Receipt of property (money) in the Republic of Kazakhstan and/or the incurrence of obligations by a resident to return property (money) to a non-resident in an amount exceeding 500,000 US dollars or its equivalent.
2. Transfer of property (money) from the Republic of Kazakhstan and/or the incurrence of claims by a resident for the return of property (money) by a non-resident in an amount exceeding 500,000 US dollars or its equivalent.

A resident participant in a foreign exchange agreement related to the movement of capital must apply for the assignment of an accounting number for such a foreign exchange agreement to the territorial branch of the National Bank located at the place of its permanent residence (for an individual) or location (for a legal entity) before the commencement of obligations by any of the parties.



## 2. CAPITAL MOVEMENT TRANSACTIONS



### REQUIREMENT FOR ACCOUNTING REGISTRATION OF A FOREIGN EXCHANGE AGREEMENT IN THE NATIONAL BANK OF THE REPUBLIC OF KAZAKHSTAN

**To obtain an accounting number for a foreign exchange agreement related to the movement of capital, a resident participant of such agreement submits the following documents to the National Bank:**

1. A duly completed application form.
2. For individuals - a copy of an identity document containing an individual identification number, or a document confirming the right of permanent residence in the Republic of Kazakhstan (for foreigners or stateless persons).
3. Copies of the foreign exchange agreement related to the movement of capital and any amendments or additions to it, pertaining to the obligations under the foreign exchange agreement related to the movement of capital, stitched and certified with the signature of the individual or the representative of the legal entity. If the foreign exchange agreement related to the movement of capital is concluded in a foreign language, it must be submitted with its translation into Kazakh or Russian.

**The registration process takes up to 5 business days from the day of submitting all the required documents in full.**

## 2. CAPITAL MOVEMENT TRANSACTIONS

### REPORTS



A resident shall submit reports to the territorial branch of the National Bank, at the place of obtaining the accounting number for the foreign exchange agreement related to the movement of capital or the account in a foreign bank, on a quarterly basis, no later than the 10th day of the month following the reporting period. The reports should be in the prescribed forms, depending on the type of capital movement operation.

The submission of reports begins with the report for the period that includes the date of assignment of the accounting number and ends with the report for the period in which the foreign exchange agreement related to the movement of capital is removed from the accounting registration.

Upon request from the National Bank, a resident participant of the foreign exchange agreement related to the movement of capital shall provide documents and/or information related to the implementation of the capital movement operation and/or referred to in previously submitted documents.

## 2. CAPITAL MOVEMENT TRANSACTIONS



### FINES AND SANCTIONS

**Violation by individuals, individual entrepreneurs, or legal entities of the deadline for applying for the assignment of an accounting number to a foreign exchange agreement will result in a warning.**

**A repeated violation within one year after the imposition of an administrative penalty will result in a fine:**

- For individuals - in the amount of 10 Monthly Calculation Indices (MCI),
- For small business entities, non-profit organizations - in the amount of 20 MCI,
- For medium-sized business entities - in the amount of 50 MCI,
- For large business entities - in the amount of 100 MCI\*.

*\*1 MCI = 3450 tenge.*

## 2. CAPITAL MOVEMENT TRANSACTIONS



### FINES AND SANCTIONS

**Violation by individuals, individual entrepreneurs, or legal entities of the deadline for submitting a report on a foreign exchange agreement, on the basis of which capital movement operations are conducted, will result in a warning.**

**A repeated violation within one year after the imposition of an administrative penalty will result in a fine:**

- For individuals - in the amount of 5 Monthly Calculation Indices (MCI),
- For small business entities - in the amount of 10 MCI,
- For medium-sized business entities - in the amount of 20 MCI,
- For large business entities - in the amount of 40 MCI\*.

*\*1 MCI = 3450 tenge.*

## 2. CAPITAL MOVEMENT TRANSACTIONS



### FINES AND SANCTIONS

**Submission of an incomplete and/or inaccurate report on a foreign exchange agreement, based on which capital movement operations are conducted, by individuals, individual entrepreneurs, or legal entities, will result in a warning.**

**A repeated violation within one year after the imposition of an administrative penalty will result in a fine:**

- For individuals - in the amount of 5 Monthly Calculation Indices (MCI),
- For small business entities - in the amount of 10 MCI,
- For medium-sized business entities - in the amount of 20 MCI,
- For large business entities - in the amount of 40 MCI.

*\*1 MCI = 3450 tenge.*

### 3. IMPORT-EXPORT CURRENCY CONTROL



**Import** - the transfer of goods by a non-resident to a resident, partial transfer of exclusive rights to intellectual property objects by a partially non-resident to a resident, provision of services, leasing of property by a non-resident to a resident.

**Export** - the transfer of goods by a resident to a non-resident, partial transfer of exclusive rights to intellectual property objects by a partially resident to a non-resident, provision of services, leasing of property by a resident to a non-resident.

For the purposes of the law "On Currency Regulation and Currency Control," currency operations related to the import or export of goods and services include::

1. Operations for the acquisition and redemption of electronic money issued by non-residents carried out by residents.
2. Operations for the acquisition and redemption of electronic money issued by residents carried out by non-residents.

# 3. IMPORT-EXPORT CURRENCY CONTROL

## REQUIREMENT TO OBTAIN REGISTRATION NUMBERS



The foreign exchange contract for export or import must be subject to registration if the amount of such contract exceeds 50,000 US dollars or its equivalent.

If the amount of the foreign exchange contract for export or import is not specified at the time of its conclusion, such contract is considered subject to registration.

The exporter or importer applies for obtaining the registration number before commencing the performance of obligations under the foreign exchange contract for export or import by any of its parties.

# 3. IMPORT-EXPORT CURRENCY CONTROL

## REQUIREMENT TO OBTAIN REGISTRATION NUMBERS



### The registration is carried out in the following manner:

1. In an authorized bank (or its branch) that services the exporter's or importer's bank account if all payments and/or money transfers are made using the exporter's or importer's account in the authorized bank (or its branch).
2. In an authorized bank (or its branch) that services the exporter's or importer's bank account if payments and/or money transfers are made using accounts opened both in the authorized bank (or its branch) and in a foreign bank.
3. In the territorial branch of the National Bank at the place of permanent residence or location of the exporter or importer if all payments and/or money transfers are made using the exporter's or importer's account in a foreign bank intended to secure the resident's obligations under the terms of the financial loan attracted from a non-resident or to support the activities of the resident's branches (representative offices) opened abroad.



# 3. IMPORT-EXPORT CURRENCY CONTROL

## REQUIREMENT TO OBTAIN REGISTRATION NUMBERS



**To obtain the registration number, the exporter or importer submits the following documents to an authorized bank (or its branch) or the territorial branch of the National Bank:**

1. A standard application form.
2. The original or a copy of the foreign trade agreement (export or import). If the agreement is concluded in a foreign language, a translation into Kazakh or Russian is provided.

When applying for the registration number at the territorial branch of the National Bank, the exporter or importer additionally submits a document with signature samples.

The processing time is 2 business days from the date of submitting the required documents.

# 3. IMPORT-EXPORT CURRENCY CONTROL

## REPATRIATION



**Repatriation of national and/or foreign currency related to exports or imports involves crediting the following to bank accounts in authorized banks:**

- Proceeds in national and/or foreign currency from exports.
- National and/or foreign currency transferred by a resident in favor of a non-resident for import settlement purposes in cases of non-fulfillment or partial fulfillment of obligations by the non-resident.

# 3. IMPORT-EXPORT CURRENCY CONTROL



## FINES AND SANCTIONS FOR NON-COMPLIANCE

**Failure of an individual entrepreneur or a legal entity to fulfill the requirement of repatriation of national and/or foreign currency, committed as non-crediting of national and/or foreign currency to bank accounts in authorized banks:**

1. Proceeds in national and/or foreign currency from exports.
2. National and/or foreign currency transferred by a resident in favor of a non-resident of the Republic of Kazakhstan (RK) for import settlement purposes, subject to return due to non-fulfillment or partial fulfillment by the non-resident of the RK of circumstances - entails a penalty of 20% of the amount of non-credited national and/or foreign currency, but not exceeding 2000 Monthly Calculation Index (MCI).

**Violation by an individual entrepreneur or a legal entity of the deadline for submitting information and/or documents confirming the emergence, execution, and termination of obligations and/or circumstances affecting the deadlines and/or conditions of repatriation of national and/or foreign currency - results in a warning.**

**Repeated violation within a year after the imposition of administrative punishment - entails a penalty:**

- For small and medium-sized businesses - in the amount of 20 MCI,
- For large businesses - in the amount of 50 MCI,
- For major enterprises - in the amount of 100 MCI.

## 4. ACCOUNT NUMBERS FOR ACCOUNTS IN FOREIGN BANKS



Notification to the National Bank of the Republic of Kazakhstan about an account in a foreign bank is required for the opening of a bank account, an unallocated metal account in a foreign bank, by a legal entity or its branch (representative office).

A resident legal entity applies to the territorial branch of the National Bank located at its place of residence before conducting operations using this account, with the following documents:

1. A statement in the prescribed form;
2. A copy of the foreign bank document confirming the opening of the account with the specified account details. If the document is in a foreign language, it must be accompanied by a translation into Kazakh or Russian.

The account number is assigned within 5 working days from the date of submission of all necessary documents and information by the resident legal entity..

## 4. ACCOUNT NUMBERS FOR ACCOUNTS IN FOREIGN BANKS



### REPORTING

**A resident legal entity is required to submit the following reports quarterly, by the 10th day (inclusive) of the month following the reporting period, for an account in a foreign bank that has been assigned an account number:**

1. Report on the account in a foreign bank opened by its branch (representative office) located outside the Republic of Kazakhstan.
2. Report on the fulfillment of obligations in the prescribed form.
3. In cases not mentioned above, a report on the movement of funds in the account of the foreign bank in the prescribed form.

## **4. ACCOUNT NUMBERS FOR ACCOUNTS IN FOREIGN BANKS**



### **FINES AND SANCTIONS FOR NON-COMPLIANCE**

**Violation by a legal entity of the deadline for obtaining an account number in a foreign bank will result in a warning.**

**Repeated violation within a year after the imposition of administrative penalties will result in fines as follows:**

- For individuals - 10 times the Monthly Calculation Index (MCI).
- For small businesses and non-profit organizations - 20 times the MCI.
- For medium-sized businesses - 50 times the MCI.
- For large businesses - 100 times the MCI.

## 4. ACCOUNT NUMBERS FOR ACCOUNTS IN FOREIGN BANKS



### FINES AND SANCTIONS FOR NON-COMPLIANCE

**Violation by individuals, individual entrepreneurs (IP), or legal entities of the deadline for submitting a report on an account in a foreign bank with an account number will result in a warning.**

**Repeated violation within a year after the imposition of administrative penalties will result in fines as follows:**

- For individuals - 50 times the Monthly Calculation Index (MCI).
- For small businesses - 10 times the MCI.
- For medium-sized businesses - 20 times the MCI.
- For large businesses - 40 times the MCI.

## 4. ACCOUNT NUMBERS FOR ACCOUNTS IN FOREIGN BANKS



### FINES AND SANCTIONS FOR NON-COMPLIANCE

**Submitting an incomplete and/or false report on an account in a foreign bank with an account number by individuals, individual entrepreneurs (IP), or legal entities will result in a warning.**

**Repeated violation within a year after the imposition of administrative penalties will result in fines as follows:**

- For individuals - 5 times the Monthly Calculation Index (MCI).
- For small businesses - 10 times the MCI.
- For medium-sized businesses - 20 times the MCI.
- For large businesses - 40 times the MCI.



## 5. ANTI-MONEY LAUNDERING



In accordance with the law of the Republic of Kazakhstan "On Combating Money Laundering and Financing of Terrorism," banks and their branches are subjects of financial monitoring, meaning they apply a set of measures for the collection, processing, analysis, and use of information about money and/or other property transactions.

### **Operations subject to financial monitoring:**

1. If the amount of the transaction equals or exceeds 5,000,000 tenge or is equal to the amount in foreign currency equivalent to 5,000,000 tenge or exceeds it, and the nature of the transaction falls into one of the following types of operations:
  - Transfers of money abroad to accounts (deposits) opened under an anonymous owner, receipt of money from abroad from an account (deposit) opened under an anonymous owner in cash or non-cash form;
  - Purchase and sale of precious metals and gemstones, jewelry made of them, in cash or non-cash form;
  - Crediting or transferring money to the bank account of a client, carried out by a physical person, legal entity, or foreign structure without the formation of a legal entity, which is registered, has a place of residence or location in an offshore zone, and also owns an account in a bank registered in an offshore zone, or client's transactions with money and/or other property involving the mentioned category of persons in cash or non-cash form.

## 5. ANTI-MONEY LAUNDERING



### Operations subject to financial monitoring:

2. If the amount of the transaction equals or exceeds 7,000,000 tenge or is equal to the amount in foreign currency equivalent to 7,000,000 tenge or exceeds it, and the nature of the transaction falls into one of the following types of operations:
  - Payments and money transfers made by the client to another person on a gratuitous basis, in cash or non-cash form;
3. If the amount of the transaction equals or exceeds 10,000,000 tenge or is equal to the amount in foreign currency equivalent to 10,000,000 tenge or exceeds it, and the nature of the transaction falls into one of the following types of operations:
  - Withdrawal from the bank account or crediting to the bank account of the client, as well as receipt from the client or issuance to the client of cash, except for cases provided in the fifth and sixth paragraphs of this subparagraph, in cash form;
  - Operations conducted by legal entities within three months from the date of their state registration, in cash or non-cash form;
  - Deals related to the provision of services, including subcontracting, transportation, freight forwarding, storage, commission, trust management of assets, excluding safe deposit operations related to renting safe deposit boxes, lockers, and premises, in cash form;
  - Receipt of money in cash through a check or promissory note.

## 5. ANTI-MONEY LAUNDERING



### Operations subject to financial monitoring:

4. If the amount of the transaction in foreign currency is equal to or exceeds 100,000,000 tenge in equivalent, and the nature of the transaction involves a cross-border payment and transfer of money from a bank account or to a bank account of the client in non-cash form;
5. If the amount of the transaction equals or exceeds 50,000,000 tenge or is equal to the amount in foreign currency equivalent to 50,000,000 tenge or exceeds it, and the nature of the transaction involves a real estate deal, the result of which is the transfer of property rights to such property.

## 5. ANTI-MONEY LAUNDERING



Suspicious transactions are subject to financial monitoring regardless of the form of their implementation or the amount involved, or whether they have been or could have been executed.

Transactions are deemed suspicious in accordance with the implementation programs of the internal control rules of the financial monitoring subject or as a result of studying transactions based on the reasons mentioned above, when there are grounds to believe that client transactions are related to the legalization (money laundering) of income obtained by criminal means and/or financing of terrorism.

# Thanks for your attention!



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