



Legal updates

In this issue, we would like to bring to your attention a brief overview of the recent amendments to the legislation concerning the following:

- ▶ Inspections in the field of entrepreneurship are suspended until January 1, 2023
- ▶ Amendments to the Regulations on administration of International Agreements for the Avoidance of Double Taxation
- ▶ Amendments to the Code on Administrative Offenses

Inspections in the field of entrepreneurship are suspended until January 1, 2023

On 9 February 2022 the Law on extension of the suspension of the inspections in the field of entrepreneurship was published. According to the Law inspections shall be suspended until 1 January 2023.

Amendments to the Regulations on administration of International Agreements for the Avoidance of Double Taxation

On December 27, 2021, the Decision #21 of the Board of the Ministry of Economy of the Republic of Azerbaijan concerning Amendments to Regulations on administration of International Agreements for the Avoidance of Double Taxation (hereinafter referred as to the "Amendments") was adopted.

Amendments envisage the following changes with respect to administration of international agreements and review of relevant application forms by the tax authorities. According to the Amendments, the following changes have been introduced to the general rules covering submission and review process of application forms with reference to international agreements:

- ▶ In cases where it is possible to verify the authenticity of the supporting documents attached to DTA-02, DTA-03 and DTA-05 application

- ▶ forms using the QR code and (or) identification number on the official website of the relevant foreign authority, such documents could be submitted to the attention of local tax authorities without apostillation;
- ▶ Documents that have been submitted within previous applications, and are still valid at the time of a new application, can be referred to and used by an applicant for the purposes of a new application, removing the need to compile and provide such document again;
- ▶ DTA-03 application form along with the package of supporting documentation should be submitted to the tax authorities no later than the end of quarter in which payment to a non-resident is processed;
- ▶ With the exception of DTA-05 application forms, the tax authorities have a right to review submitted application forms within 30 days with an option to extend the review period twice for additional 30 days. When an official request is sent to foreign parties, the relevant authorities of other states, or within the country for further investigation, the time for consideration of the application is suspended until a response is received;
- ▶ Application for refund of overpaid taxes via DTA-05 application form may be submitted no later than 5 years after the end of the respective tax reporting period;
- ▶ The list of documents to be attached to DTA-03 and DTA-05 forms has been expanded, now including detailed information on nature of service, place of such service rendering, information regarding involved local and foreign employees (passport/ ID details).
- ▶ According to the Amendments, the following documents should be submitted to prove the beneficial ownership of a non-resident for the purposes of DTA-03 and DTA-05 application forms:
 - ▶ documents confirming the right of a party to receive such income (e.g. charter, state registry extract, any other documents confirming shareholding interest);
 - ▶ confirmation on absence of any liabilities before third parties in relation to income earned;
 - ▶ documents confirming the actual business activity of a non-resident in a country of residence (e.g. financial statements, tax reports, registration certificate etc.).

Amendments to the Code on Administrative Offenses

On January 27, 2022, the Law on Amendments to the Code on Administrative Offenses of the Republic of Azerbaijan (hereinafter referred to as the “Code”) (hereinafter referred to as the “Amendment”) was published.

Amendment on conditional application of administrative penalty

It has already become possible to impose a conditional administrative fine on “termination of an employee's employment contract in violation of the requirements of labor legislation” reflected in Article 192.6 of the Code. Thus, if the employer rectifies the violation committed within the period specified in the decision on the conditional application of the administrative error, he will be exempt from paying the fine.

However, administrative penalties for non-submission of monthly reports on employees hired and fired by quotas and referrals (section 540.1) and failure to place relevant vacancies in the electronic information system with the indication of salaries (section 540.2) will no longer be applied conditionally.

Administrative liability for violations in the calculation and payment of business travel expenses and allowances

Article 192.4 of the Code was amended. Thus, liability arises for violations of the law in the calculation and payment of not only labor and vacation pay, but also travel expenses and other benefits provided by law.

It should be noted that officials are fined from seven hundred to one thousand five hundred manat for these violations.

Administrative offense in connection with violation of labor legislation

Article 539.1-1 was added to the Code with amendments. According to the article, officials will be fined AZN 1,000 and legal entities AZN 2,000 for non-compliance with the decisions and guidelines of the Ministry of Labor and Social Protection of the Republic of Azerbaijan on the following issues:

- ▶ grounds for concluding, amending and terminating the employment contract;
- ▶ working conditions, working and rest time, exercise of the right to leave, payment of labor and vacation fees, travel expenses, benefits and other payments;
- ▶ requirements related to the characteristics of the use of labor of women and employees under the age of 18.

It should be noted that the penalty provided by Article 539.1-1 above will be applied in the absence of liability specified in Article 192 of the Code.

Contacts

We hope that you will find this overview helpful. For more detailed information, please contact the following specialists:



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