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# PwC Azerbaijan Times

## Issue №7

### **Overview of this Issue:**

- Ruling of the Constitutional Court on the Tax Evasion Crimes
- Double Tax Treaty Update
- Destruction of goods provided to the customs authorities
- Rules for placing the goods under temporary import and export customs procedures
- Minimum investment requirements in industrial parks



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For any questions related to the information included herein, please contact

Aysel Suleymanova  
Marketing & Communications Manager

[aysel.suleymanova@az.pwc.com](mailto:aysel.suleymanova@az.pwc.com)

**PwC Azerbaijan**  
The Landmark Office Plaza III | 12th Floor  
90A Nizami Street  
AZ1010 Baku | Azerbaijan  
Tel: +994 12 497 2515  
Fax: +994 12 497 7411  
[www.pwc.com/az](http://www.pwc.com/az)

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### **Ruling of the Constitutional Court on the Tax Evasion Crimes**

The Constitutional Court of the Azerbaijan Republic heard a case to interpret Article 213 (Tax Evasion Crimes) in the Criminal Code and Articles 78.3 and 78.4 in the Tax Code.

The Constitutional Court heard this case based on a request of a regional court to clarify whether the effective head of the company, who does not hold an official position in the company but performs factually the functions of the head of the business, may be held criminally liable for tax evasions of this business. The Constitutional Court clarified that in accordance with Article 78.3 of the Tax Code, a person who actually generates income as a result of the commercial activity of the legal entity, who actually disposes of the funds or property of the legal entity is considered a person performing the tax obligations in the capacity of the taxpayer. Such persons may be held liable for a criminal tax evasion based on Article 213 of the Criminal Code.

Additionally, if the officials of the company participated in the tax evasion crime, they may also incur a criminal liability.

### **Double Tax Treaty Update**

Azerbaijan and Israel plan to sign a double tax treaty in December 2013.

### **Destruction of goods provided to the customs authorities**

On 5 September 2013 the Cabinet of Ministers by Decree # 247 approved the Rules and cases for destruction of goods provided to the customs authorities.

These Rules were prepared in accordance with Article 331 of the Customs Code and regulates destruction of goods provided to the customs authorities.

# PwC Azerbaijan Times

## Issue №7

- at request of the applicant
- by an initiative of the customs authorities in cases determined by the law

The destruction of goods is allowed at request of the applicant in the following cases:

- The goods were imported through the territory of Azerbaijan;
- The goods were imported into the customs territory of Azerbaijan and declared under the customs warehouse, export and re-export, transit, end use, internal manufacture, external manufacture, temporary import and free zone customs procedures.

Destruction of goods at request of the applicant is forbidden in the following cases:

- a) If their import into the Republic of Azerbaijan is prohibited;
- b) If they are cultural, historical and archaeological heritage of the Republic Azerbaijan and nations of foreign countries;
- c) With exception of the measures to prevent the spreading-out of the especially dangerous animal diseases and plant quarantine objects, if goods are certain rare species of animals or plants.

The Rules set out the procedures and documents required to apply for destruction of goods as well as other matters on this topic.

### Rules for placing the goods under temporary import and export customs procedures

On 2 September 2013, the Cabinet of Ministers approved by Decrees # 244 and 245 the Rules for placing the goods under the temporary import and export regimes.

The Rules were prepared according to Articles 192.4 and 130.2 of the Customs Code and regulate the placing of goods under special customs procedures of temporary import and export.

The goods declared under the temporary import regime are fully or partially free of customs duties and taxes and are expected to be re-exported after a certain period.

Similarly, the goods placed under the temporary export regime can be used outside the territory of the Azerbaijan Republic and be fully or partially exempt from customs duties and taxes. These goods should be imported into Azerbaijan without any alterations, except natural amortization or alterations occurred in the process of exploitation of the goods as well as losses occurred during transportation or storage.

### Minimum investment requirements in industrial parks

On 3 September 2013, the Collegium of the Ministry of the Economic Development of the Republic of Azerbaijan passed Decree #13 on establishing a minimum investment in order to register legal entities and natural persons in the industrial parks and minimum capital requirements for new investments in these parks.

- Minimum investment requirement for legal entities and natural persons for registration in the Sumgait Chemical Industrial Park is AZN 5,000,000.
- Minimum investment requirement for legal entities and natural persons for the registration in the Balakhany Industrial Park is AZN 500,000.
- Minimum capital investment for new investment projects is 50% of the investment made into the commercial and other objects alienated in the territory of industrial parks.

# **PwC Azerbaijan Times**

Issue №7

## **PwC's Academy**

### **Budgeting and Forecasting training**

PwC's Academy has run Budgeting and Forecasting training jointly with ADA (Azerbaijan Diplomatic Academy). An approximate number of 15 people representing a wide array of industries in Azerbaijan attended this 3-day training which focused on budgeting and forecasting techniques at commercial entities.

### **Workshop**

PwC's Academy is running a workshop with the Central Bank of Azerbaijan on 22-23 October with the participation of the representatives of local commercial banks and non-banking credit organizations in Azerbaijan. The training will focus on accounting for financial instruments and the preparation of financial statements in accordance with IFRS (International Financial Reporting Standards)

### **PwC Talents Club**

PwC's Academy is finalizing its second intake of PwC Talents Club, which is a social outreach program focusing on development of core business skills for university students. The PwC Talents Club members will undergo a free-of-charge 6-month training program including a 3-month internship experience at one of the reputable PwC clients.

