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Electronic database of the government on employment contracts and other labor law news

On 5 February 2014, a law on changes to the Labor Code came into force. The major changes are the following:

- A special electronic information system of the Ministry of Labor and Social Protection of Population will be introduced to track the conclusion, changing, and termination of employment contracts. A concrete date of establishment of the system has not been yet announced.

The employers will be obliged to process a special employment contract notification into the system. Within one working day, the Ministry of Labor and Social Protection of Population shall send an electronic notification to

the employer confirming registration of employment contract notifications in the system.

Except specific cases (e.g., certain positions in the state bodies), all employment cases and employment contracts will become effective only after the Ministry registers employment contract notifications.

Until 1 July 2014, the employers will be required to upload into the system the notifications on labour contracts concluded and entered into force before the date of this amendment. It is expected that the Ministry of Taxes will have full access to the system.

The Cabinet of Ministers will issue a form of an employment contract notification along with rules on uploading these notifications

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into the system.

- Sole entrepreneurs have been removed from the definition of the employer. Now, the term of “employer” covers individuals, along with the owner, a manager appointed by the owner or the head of an authorized body of the legal entity.
- The mandatory content in employment contracts has been revised. Subsequently, the sample form of an employment contract in the Labor Code has also been amended.

Penalties for hiring without employment contracts in force

Effective from 4 February 2014, employers who use the services (works) of individuals without employment contract in force will be subject to the following :

1. Administrative Penalties

Fine on the physical persons at AZN 1,000 to AZN 3,000, on the officers at AZN 3,000 to AZN 5,000, and on legal entities at AZN 20,000 to AZN 25,000.

These penalties apply for hiring of less than 10 people without employment contracts.

2. Criminal liability

For hiring of ten or more people without employment contracts:

- Fine from AZN 7,000 up to AZN 10,000 or up to 3 years of imprisonment;
- If the same actions are committed repeatedly, imprisonment from 3 years to 7 years.

Tax Code News

The new amendments to the Tax Code entered into force on 4 February 2014. The amendments include the following:

- Operative tax control covers the detection of cases where individuals work for employers without employment contracts in force. Subsequently, if absence of an effective employment contract creates the condition for concealment (understatement) of income of these individuals, the employer may be penalized at AZN 1,000 for every individual that works without an employment contract in force.

- Individuals earning monthly salary at the main workplace (where the labor record is maintained) in the amount less than AZN 250 (before the amendment, AZN 200) and annual employment compensation in the amount less than AZN 3,000 (before the amendment, AZN 2,400) are eligible to personal income tax exemption on the amount respectively of one time and twelve times of statutory minimum cost of living for capable population. Currently, the statutory minimum cost of living for capable population is AZN 136.

This amendment is effective retrospectively from 1 September 2013.

Tax exemptions and incentives

The Milli Majlis extended the personal income tax exemption on interest paid on deposits of individuals by banks and other credit institutions for one year period effectively from 1 January 2014.

Also, the duration of the tax incentives for the producers of the agricultural products is extended for 5 years from 1 January 2014.

Double Tax Treaty Update

The double tax treaty between Azerbaijan-Bosnia and Herzegovina entered into force on 26 December 2013, and its provisions are applicable from 1 January 2014.

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New excise duty rates on oil products

The new rates are effective from 1 January 2014. Pursuant to the Decree, the excise duty rates have been reduced from 159 percent to 64 percent for AI-95 gasoline, from 134 percent to 65 percent for AI-92 gasoline, and from 57 percent to 18 percent for diesel fuel.

There are also new excise duty rates for other oil products which are reflected in the Decree.

These excise duty rates apply on the oil products produced and sold in the Azerbaijan Republic.

Changes on liquidation process of legal entities, and branches and representative offices of foreign legal entities

The amendments to the Azerbaijani Civil Code and the Law on State Register and State Registration of Legal entities" became effective on 31 December 2013.

The following are the major changes with regard to the liquidation of legal entities and branches and representative offices of foreign legal entities:

- An official solvency statement/declaration shall be issued by the liquidating legal entity. The law does not specify a special form for such a declaration. However, the law indicates the certain conditions that should be reflected in the Declaration, such as legal entity's assets and liabilities.
- First official announcement with regard to the liquidation of the legal entity shall be published in a newspaper within 10 days of adoption of a liquidation resolution. Two additional similar announcements shall be published in the same newspaper.

- Within 15 calendar days of adoption of the liquidation resolution, the appointed liquidator shall file all required documentation and corporate seal to the state registrar of commercial legal entities.

- The State Registrar shall enter the relevant liquidation information within 5 days. Once such information has been entered into the registry, the legal entity shall be officially considered being in the liquidation process. A new seal indicating "in liquidation process" shall be obtained and used.

- The overall liquidation process shall not exceed 12 (twelve) months from the date when the legal entity is officially considered being in liquidation process.

Administrative Delinquencies Code news

The changes and amendments to the Administrative Delinquencies Code became effective on 4 February 2014. The amendments include the following:

- The failure to apply to the tax office timely to register the changes in the incorporation documents of the branches and representative offices of foreign legal entities and other facts shall be subject to an administrative fine on the officers at AZN 1,000 to AZN 2,000, for legal entities at from AZN 2,500 to AZN 3,000.
- In case of banking operations and any other transactions by the non-governmental organizations, branches and representative offices of foreign non-governmental organizations or banks over the non-registered agreements on receipts (giving) of grants in the order established by the Law on Grants shall be subject to an administrative

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fine on the officers at AZN 2,500 to AZN 5,000, on legal entities at AZN 5,000 AZN to 8,000 AZN.

- Branches and representative offices of foreign non-governmental organizations which operate in Azerbaijan and fail to register duly may be subject to administrative fine at AZN 1,000 to AZN 2,000 for individuals, from AZN 2,000 to AZN 3,000 for the officers and from AZN 5,000 to AZN 8,000 for legal entities.
- There are more administrative penalties with regard to non-governmental organizations.

Criminal liability for organization of illegal migration

Effective from 31 December 2013, organization of illegal entry of foreigners or stateless persons into Azerbaijan, illegal stay in Azerbaijan, residence, illegal transit through the territory of Azerbaijan, as well as illegal departure of any person from Azerbaijan is subject to a criminal penalty at AZN 2,000 to AZN 5,000 or up to 2 years of corrective labour or up to 3 years of imprisonment;

"Electronic Court" Information System to be established

On 13 February 2014 the President of Azerbaijan signed an Order on creation of "Electronic Court" Information System.

The Electronic Court System will have the following major functions:

- Acceptance of application, complaint and other documents in the electronic format;

- Carrying out of proceedings for cases on criminal, civil, administrative and economic disputes and administrative delinquencies and electronic turnover of documents;
- Distribution of court cases among judges automatically;
- Creation of time schedules for court hearings;
- Provision of information to the participants of court proceedings in an electronic format;
- Enabling audio, video and other technical recording of court cases and online availability;
- Establishing a "personal cabinet" to access the information on court proceedings, passed decisions, implementation of the decisions, and complaints or protests to the decisions.

The President Ilham Aliyev entrusted the Ministry of Justice and the State Agency for Service to the Citizens and Social Innovations under the President of the Republic of Azerbaijan to ensure the organization and activity of the Electronic Court information system, and establish the rules on usage of the Electronic Court system.

The Cabinet of Ministers shall prepare within three months a proposal to comply with the Order.