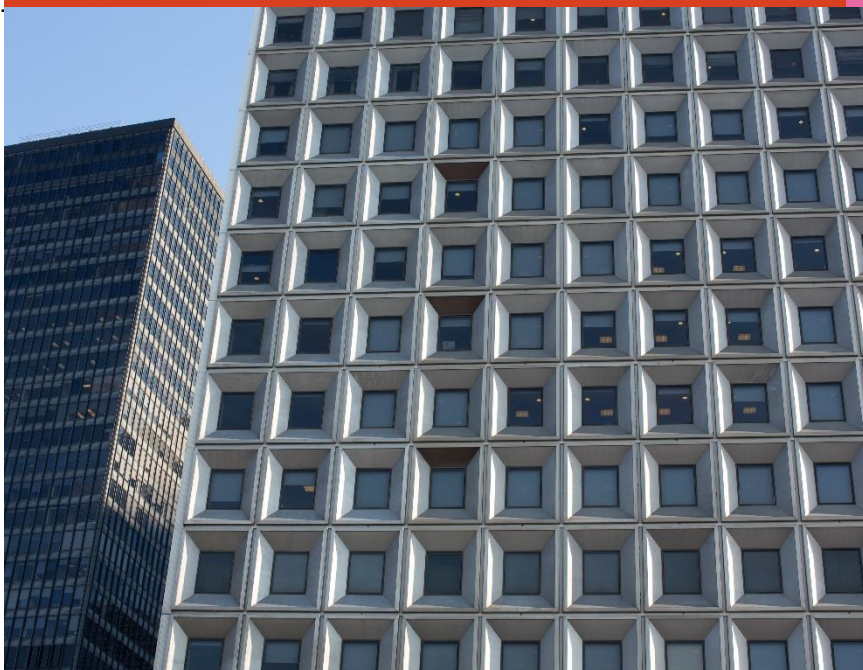


PwC Azerbaijan Times

Issue №4

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Adoption of new administrative offences code

The new Administrative Offences Code (the "Code") came into effect on 1 March 2016.

The Code contains the following major novelties, which are related to business activity of legal entities in Azerbaijan.

(i) Legal entities (including branches and representative offices of foreign legal entities) may be subject to administrative sanctions only in accordance with the court resolution;

(ii) Legal entities (including branches and representative offices of foreign legal entities) are subject to administrative sanctions for offences, committed by:

- responsible persons who are authorized to represent them; or
- responsible persons who are competent to adopt resolutions on behalf of the legal entities; or
- by the responsible persons who are authorized to supervise the legal entities' activity in Azerbaijan; and/or

• by employees of the legal entities as a result of lack of supervision by the aforementioned responsible persons of the legal entities;

(iii) Involvement of legal entities into administrative liability does not exclude responsible persons from administrative liability;

(iv) Voluntary re-organization and liquidation of legal entities is prohibited until full execution or termination of the court resolution on implication of administrative sanction.

With the adoption of the Code, administrative penalties for several offences have been significantly increased. Thus, if previously administrative penalty for illegal business activity by legal entities was up to AZN 160, effective 1 March 2016 administrative sanction will be changed to two – four times of the amount of the damage caused by the administrative offence. The penalty for fraudulent bankruptcy increased to AZN 2,000 for officials and AZN 10,000-12,000 for legal entities (according to the previous administrative offences code the penalty was AZN 55-70 and AZN 110-200, respectively).

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Promotion of export of non-oil goods

The Presidential Decree on “Promotion of export of non-oil goods”, which came into force on 1 March 2016 envisages promotional payments from the state budget to the persons engaged in the export of the non-oil products from the Republic of Azerbaijan, for the purposes of promoting the export of non-oil products produced during 2016-2020.

Base value of the promotional payments, payable on the export of non-oil products, should be determined at the level of 3% of the customs value of the products actually exported.

The decree is effective up to 31 December 2020.

Draft law on Build, Operate, Transfer (BOT) model for construction-infrastructure projects

The draft law on “Implementation of Investment Projects on Construction and Infrastructure Objects” (the “Draft Law”) is in the first reading of the Azerbaijani Parliament. According to the Draft Law, *Build Operate Transfer* (“BOT”) is a specific form of project financing, according to which investors recoup their investments expenses with regard to projects of construction and infrastructure objects through procurement of goods/services provided by the investors to the customers or competent government bodies.

BOT model is applicable to construction, restoration, rebuild, repair, operation and transfer of bridges, tunnels, water warehouses, water cleansing plants – constructions, sewerage systems, and other publicly important construction-infrastructure objects in the fields of education, health, culture, tourism, etc. in accordance with BOT agreement. Maximum term of BOT agreements is 49 years.

Apart from financial support guaranteed by the government, the other important advantage of implementation of projects under BOT model is exemption from state duties and levies, which is provided to investors for the works/services and goods performed under these projects.

Amendments to the laws on banks and Central Bank of the Republic of Azerbaijan

Our readers may recall from PwC Azerbaijan Times Issue #3 of February 2016, a new public entity – Chamber of Control over Financial Markets (“CCFM”) – was established due to the Presidential Decree of 3 February 2016 in order to ensure efficient activity and stability of the financial market, to protect rights and interests of creditors, insureds, investors, and other customers of financial market. CCFM has also been assigned to carry out functions and authorities of control and financial monitoring body over banks, non-bank credit organizations, insurance organizations, investments funds, and other subjects of financial market.

Consequently, respective amendments were made to the Laws “On Banks” and “On the Central Bank of Azerbaijan” which reflect transfer of several functions and authorities of the Central Bank of Azerbaijan to or their joint implementation with CCFM. The mentioned authorities are mainly related to granting, or termination of bank licenses, submission of annual financial reports of the banks, audit of activities of banks, and regulation of cashier operations in non-bank credit organizations.

Amendments to the Law “On the Central Bank of Azerbaijan” are changing the status of the Central Bank of the Republic of Azerbaijan from a government body into a public legal entity.

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This change leads to limitation of the government's liability in relation to the activities and obligations of the Central Bank of the Republic of Azerbaijan to the amount of the government's share in the charter capital (for more information about public legal entities, please refer to PwC Azerbaijan Times Issue # 3 of February 2016).

Amendments to the Presidential Decree on "Implementation of the law on Inspections in the field of business regulation and the protection of entrepreneurs' interests"

According to the amendment, in case if inspector have not violated rights of an entrepreneur and acted within the legal framework, entrepreneur should not prevent inspector from examining processing and production enterprises, warehouses, sales areas and service vehicles.

Presidential Decree on amendments to "the Regulations on Entry-exit and registration interagency automated retrieval system"

According to the amendment, persons holding administrative liability for non-payment of taxes are included to the Ministry of Justice's list of restrictions on border crossing.

Azerbaijan abolished daylight savings time change

Azerbaijan National Academy of Science proposed that switch from winter to summer time does not bring any economic benefit to Azerbaijan, on the contrary, it causes medical-psychological and socio-moral issues. Taking into account Academy's proposal the Cabinet of Ministers of the Republic of Azerbaijan abolished daylight time changes.