

PwC Azerbaijan Times

Issue №14

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- **Draft law on amendments to the Civil Code**
- **Court practice on tax disputes**



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Draft law on amendments to the Civil Code

The Draft Law dated April 25, 2017, retrieved from the official website of the Parliament of Azerbaijan, makes following amendments to the Civil Code of Azerbaijan:

- 1) Prohibits purchase of shares of the main company by subsidiary and dependent organisation;
- 2) Adds the right to make amendments to agenda of a general meeting and requires to add more topics for discussion to the agenda of this meeting to the rights of participants of the general meetings of Limited Liability Companies ("LLC"), as well as the right to terminate the authorities of the chosen board of directors (supervisory board) and/or inspection commission;
- 3) Adds more details in the procedures that Supervisory Board of LLC should follow;
- 4) Adds the clause describing requirements towards audit committee of LLC;
- 5) Adds the list of information that needs to be covered in the annual reports and balance sheet of Open Joint Stock Companies ("OJSC");
- 6) Includes the procedure of transfer of shares in OJSC: decision on alienation or purchase of 50% or more shares of OJSC or in other Company, respectively, can be adopted by two-thirds majority decision during the general meeting of shareholders. The proposal on purchase of 50% or more of shares in OJSC should be officially presented to each of shareholders;
- 6) Gives the priority in sale and issuance of additional shares to owners of simple (ordinary) or other voting shares in Closed Joint Stock Companies ("CJSC");
- 7) Broadens the rights of shareholders in Joint Stock Companies ("JSC") by adding the right to:
 - a) bring members of executive and supervisory board to liability for damage caused to JSC by their negligence;
 - b) participate in the process of sale of shares of JSC;

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- c) apply to court or other competent authority with request of reimbursement of damage caused to JSC or shareholders as a result of deals made;
- d) familiarise themselves with deals to be signed.

8) Requires the execution of payment of dividends within 30 days after the decision regarding payments of such;

9) Adds the clause describing requirements towards the audit committee of JSC.

This alert is based on a draft law. We will monitor it and update information once the draft law is adopted.

Court practice on tax disputes

1. Company vs. the State Service for Antimonopoly Policy and of Consumer Rights protection

The amount of assessments: approx. AZN55,000.

Court instance: The Supreme Court

Date: July 2016

Subject: Scope of authorities of inspection

Issue: The State Service for Antimonopoly Policy and of Consumer Rights protection (hereinafter, the "State Service") carried out an inspection at the Company, detecting that the labels of meat products produced by the Company did not reflect correctly the content of products, and, therefore, imposed financial sanctions to the Company.

Decision: The Supreme Court, supporting the position of the Company, noted that carrying out an inspection of compliance of the content of products with their labels it is not under the authority of the State Service. According to the Laws, the authority on detection of such incompatibility belongs to another state body.

2. Employee vs. Employer

The amount of assessments: approx. AZN69,000.

Court instance: The Supreme Court

Date: June 2016

Subject: Implementing the provision of the labour legislation on termination of employment agreement

Issue: The Employer - a representative office of a foreign legal entity, has terminated the employment agreement, indicating the reason in termination order as "reduction of production volume". The employee claimed that the termination order was not justified, as in reality the volume of work was not reduced, and demanded his restoration to the job plus compensation for the material damage caused.

Decision: The Supreme Court, concluding in favor of the employee, noted that it should have been stated in the termination order in writing that "the employee will be hired after a certain period", which was a mandatory obligation of the employer.