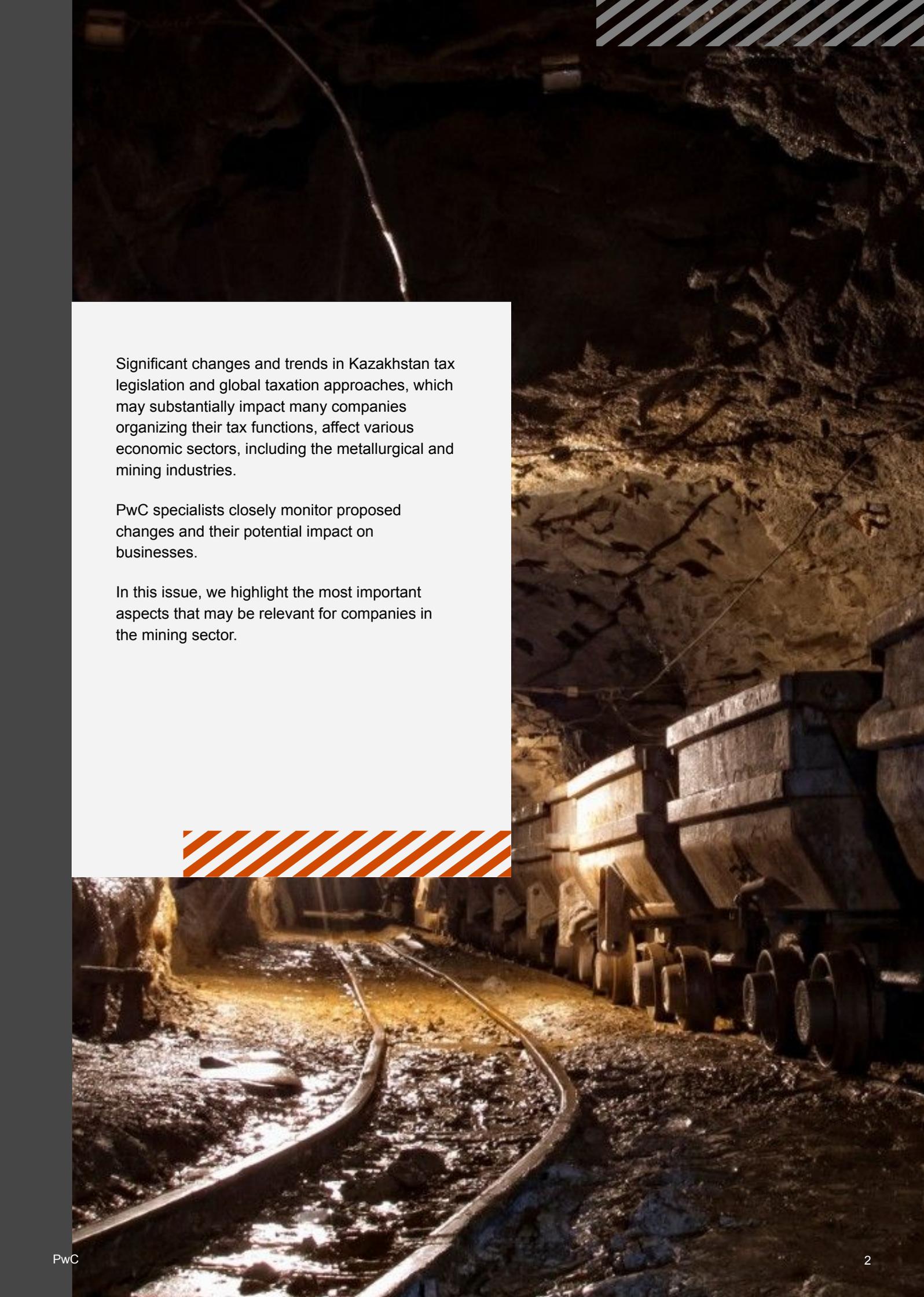




Mining industry Tax and legal leaflet

November 2024



Significant changes and trends in Kazakhstan tax legislation and global taxation approaches, which may substantially impact many companies organizing their tax functions, affect various economic sectors, including the metallurgical and mining industries.

PwC specialists closely monitor proposed changes and their potential impact on businesses.

In this issue, we highlight the most important aspects that may be relevant for companies in the mining sector.



Amendments to the Tax Code

Current amendments to the Tax Code effective from 2025

Starting from January 1, 2025, the mineral extraction tax rate on extracted uranium will increase from 6% to 9%. Furthermore, from January 1, 2026, differentiated rates for uranium will be introduced which will depend on the annual extraction volume and the average weighted uranium price.

Potential changes in the New Tax Code starting from 2026



Investment preferences

In the current draft of the New Tax Code, it is planned to abolish investment projects, priority investment projects and their benefits.

Regarding Investment Agreements, the following changes are proposed:

- Removal of the list of prohibited activities;
- Elimination of the benefit related to the reduction of tax liabilities for CIT, land tax, and property tax by 20% of actual expenses;
- Revision of the duration of tax benefits (including CIT exemption), which will now range from up to 3 years or up to 10 years, depending on the size of the investment and the type of activity.



Subsoil Use

- Introduced a definition for the start date of extraction following commercial discovery;
- Expanded the list of expenses eligible for inclusion in exploration and evaluation assets.



Other key changes

The project of the New Tax Code will introduce the following changes :

- direct prohibition on the application of benefits under tax treaties when the tax agent pays the amount of WHT at its own expense;
- 5% WHT rate is introduced for the distribution of dividends to a non-resident holding at least 25% of the capital of the resident paying the dividends; at the same time, the 10% WHT rate on dividends under the “three-year” exemption is excluded;
- The “three-year” exemption for income from capital gains on the realization (sale) of Kazakhstan shares/securities is excluded;
- 10% rate is established on interest payments on loans, debt securities paid to a non-resident.



Services related to ESG: Assessment of the Impact of the Carbon Border Adjustment Mechanism (CBAM) on Business Operations

In 2019, the European Union (EU) adopted the “Green Deal,” which aims to reduce greenhouse gas emissions by 55% compared to 1990 levels by 2030 and achieve carbon neutrality by 2050. To realize this goal, the Carbon Border Adjustment Mechanism (CBAM) was developed and implemented.

The primary objectives of the CBAM are to prevent production relocations to non-European countries to avoid paying for greenhouse gas emissions and to level the playing field between European and non-European producers.

Currently, the regulation covers direct and indirect emissions in six sectors: electricity, iron and steel, aluminum, cement, fertilizers, and hydrogen. In future, it is planned to extend the list to cover all products included in the European Emissions Trading System (ETS).

Until the end of 2025, the transition period continues, during which there are only obligations to report emissions related to regulated products imported into the EU.

Starting from 2026, it is expected that in addition to submitting annual reports, importers of regulated goods will also have to purchase and surrender CBAM certificates, the quantity of which must correspond to the volume of emissions.

Taking into account the plans to expand the sectors covered by the CBAM, the impact of the CBAM on Kazakhstan producers will significantly increase over the next few years. Moreover, according to World Bank modeling, the implementation of the CBAM could lead to annual losses of USD 250 million for Kazakhstan's exports to the EU.

Relying on its knowledge and expertise, the PwC team assists companies in Kazakhstan's metallurgical and mining industries in assessing the potential impact of the Carbon Border Adjustment Mechanism on the competitiveness of their export products.





Total Tax Contribution (TTC) data preparation of enterprises within the ESG reporting framework

The Total Tax Contribution (TTC) is the sum of all monetary taxes and charges paid and collected by a company to the budget. This indicator demonstrates the company's contribution to the tax system of countries. For its calculation, the indicator includes taxes paid by companies themselves to the budget (paid taxes) and taxes collected by the company on behalf of the government (collected taxes)

The TTC shows the company's participation in the state tax system, not only considering corporate income tax but also by applying all taxable bases. The use of the TTC indicator alongside Country-by-Country (CbC) reports, which cover only income taxes, can be useful for presenting a complete understanding of the company's involvement in a country's tax system.

PwC's activities are aimed at ensuring constructive dialogue between the government and the participants in economic relations, as well as strengthening public trust in business representatives. One of the ways to achieve this goal is ensuring the transparency of the large companies' TTC.

The PwC team assists companies in assessing their TTC, which plays an important role in the socio-economic development of participants in economic relations. By paying taxes and other mandatory payments, Kazakhstan enterprises make a significant contribution to the development of the regions where they operate. In this context, compliance with tax legislation is one of the companies' priority tasks, and the special attention is given to maintaining tax reporting and ensuring the transparency of the total tax contribution to society.

According to a survey conducted by PwC, 48% of consumers believe that companies need to do more to promote social issues, including Human Capital Management elements such as diversity, equity, and inclusion (DEI) principles, hiring practices, and equal pay. Companies are urged to provide more comprehensive disclosures that help investors and other stakeholders evaluate whether the business incorporates DEI principles into its ESG strategy.

On international level, regulatory bodies are more often asking companies to disclose information about the goals of their DEI programs within their ESG strategy. In certain cases, companies will have to explain why they have not achieved specific DEI targets.

The SEC plans to update its human capital disclosure rules for companies as part of ESG reporting in near future. Compared to other ESG measures, complete disclosure on human capital is not as easily defined, and companies may have a lack of a comprehensive historical data that reflects the impact and development of DEI principles as part of the implementation of their ESG strategy.

The PwC team assists companies in analyzing current DEI principles within ESG reporting and in implementing such principles into the company's strategy.



International Taxation Services: Multilateral Instrument (MLI)

As of January 1, 2021, Kazakhstan has implemented the Multilateral Instrument to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) with respect to Kazakhstan withholding tax.

This may mean that the application of tax benefits provided by tax treaties for transactions with non-residents of Kazakhstan will be allowed only upon passing certain anti-avoidance criteria. If you are unable to demonstrate that your transactions with non-residents have economic substance and reflect genuine business reasons, you will be subject to administrative measures in the form of fines and penalties. Additionally, in the future, you will be required to tax the income paid to non-residents according to the local legislation requirements. The inability to apply tax benefits under tax treaties can directly impact the economics of your interactions with foreign partners.

Furthermore, as of January 1, 2023, new conditions have been added to the Tax Code of Kazakhstan, limiting the application of tax treaties that fall under the scope of the MLI.

PwC actively assists companies by developing questionnaires and "defense" files to justify the approach to the application of tax treaty provisions.



International Taxation Services: Pillar 2

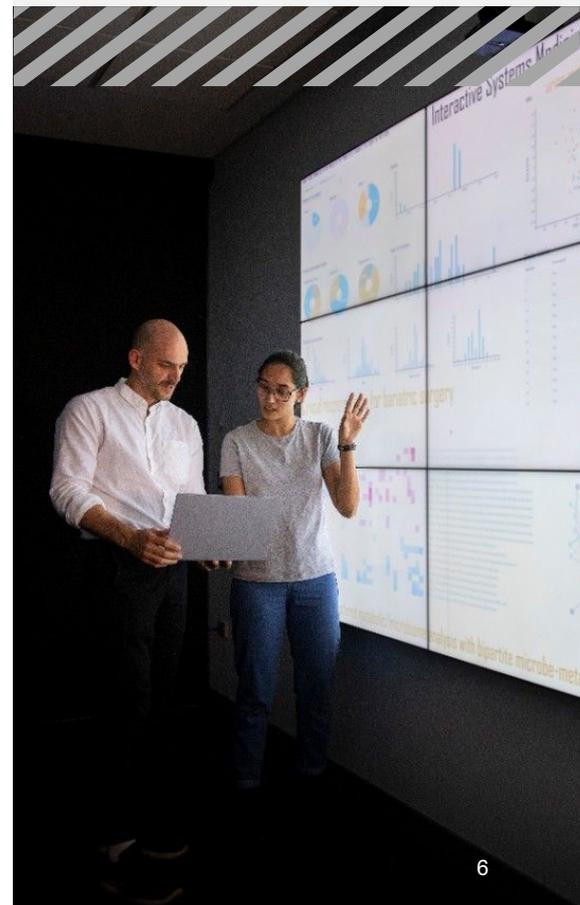
In October 2021, a special group formed by members of the Organisation for Economic Co-operation and Development (OECD) and G20 countries (the "Inclusive Framework") agreed on a Two-Pillar Solution to address the challenges arising from the digitalisation of the economy (Pillar 1 and Pillar 2). Notably, the Inclusive Framework includes over 140 countries and jurisdictions, including Kazakhstan.

The second component of this solution ("Pillar 2") proposes the introduction of a global minimum effective tax rate ("ETR") of 15% on income earned by multinational corporations with consolidated revenue of at least 750 million euros.

According to the OECD, some of the Pillar 2 rules aimed at ensuring minimum taxation will come into effect in 35 countries as early as 2024, and by 2025, the rules are expected to apply in more than 60 countries.

The Pillar 2 rules may result in additional tax implications for companies as well as obligations to calculate the ETR and submit the corresponding reports. It is important to note that the process of calculating the ETR is technically complex and requires numerous adjustments. The preparation of reports is also lengthy and labor-intensive, requiring the collection of a large amount of information from various sources.

In this regard, we are ready to offer you a comprehensive set of solutions to ensure your group's operational readiness for the Pillar 2 rules, including through the use of our licensable product, the "Pillar Two Engine."





Corporate tax services

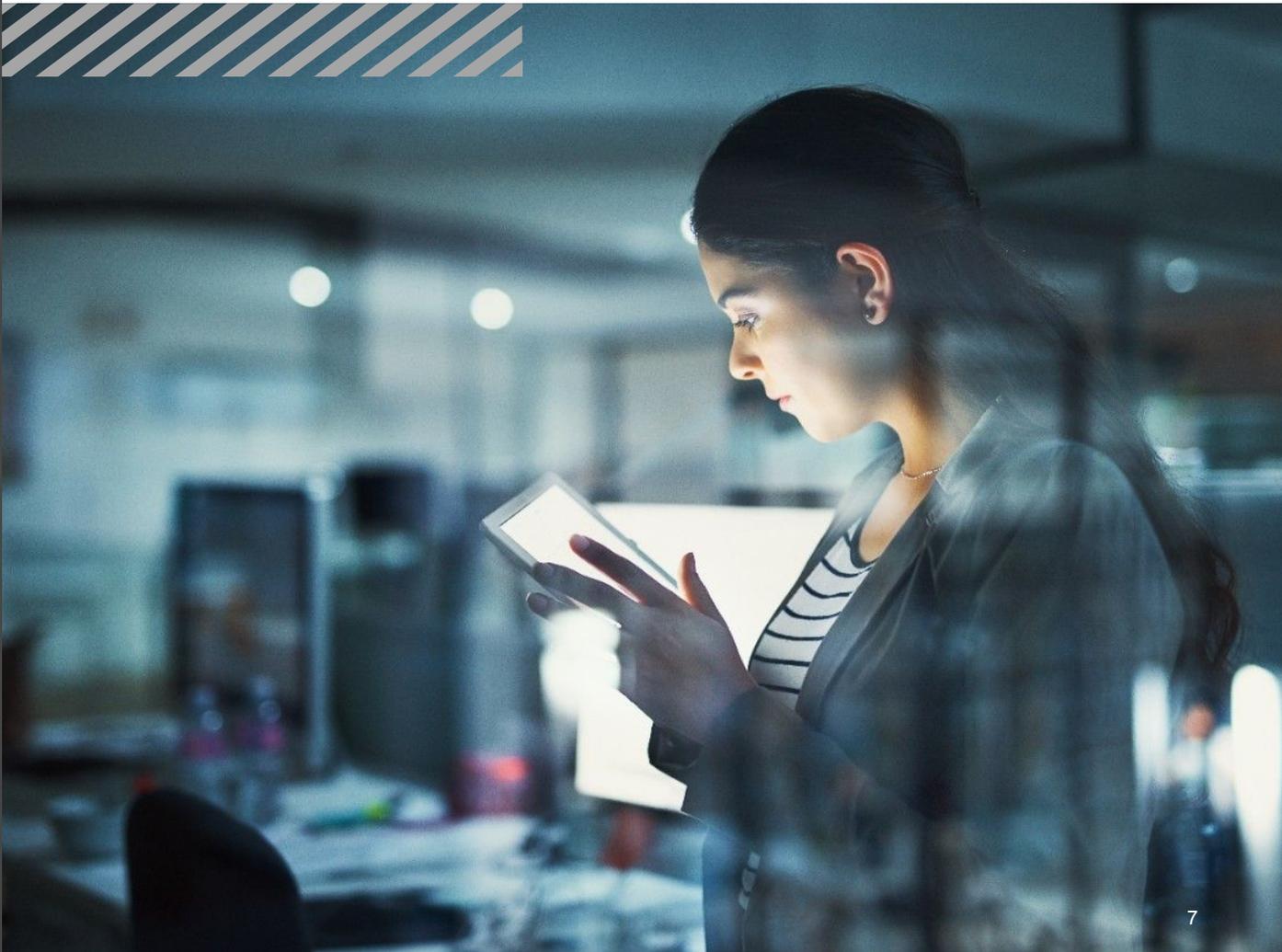
In the constantly evolving landscape of tax legislation and increasing demands for tax reporting, international companies face numerous challenges. Effective management of tax obligations and compliance with all regulatory requirements demands profound knowledge and expertise.

Our specialists possess extensive knowledge and experience, enabling us to provide high-quality advisory services and support you at every stage of tax administration.

Our services include:



- Conducting tax reviews
- Advisory services on international taxation
- Tax structuring
- Tax due diligence
- Tax support for mergers and acquisitions
- Advisory services on Kazakhstan tax legislation
- Tax consulting services on investment incentives
- Development and updating of tax accounting policies





Transfer Pricing

Recently, attention to transfer pricing (TP) issues has been increasing worldwide, both from regulatory authorities and businesses, particularly in the context of OECD initiatives to combat base erosion and profit shifting (BEPS). TP issues remain relevant in Kazakhstan as well.



Since the establishment of TP legislation in Kazakhstan, local tax authorities have conducted numerous TP audits, including in the mining sector, many of which have been resolved in court.

Accordingly, many local companies, particularly members of international groups, need to fully assess the risks associated with TP in general, as well as those related to the export of mineral raw materials and processed products.

PwC network has all the necessary technical capabilities, local specialists, and comprehensive, up-to-date knowledge in the field of regulation. Our experts can provide assistance and support in the following services:

Compliance with TP Regulations

- Preparation / adaptation / update of TP documentation for all types of transactions
- Preparation of market research regarding prices, profitability (margins), interest rates on loans, and royalties
- Preparation of transaction monitoring reports, country-by-country, master, and local files

Planning and transformation

- Structuring business with tax efficiency
- Analysis of TP issues considering your business model
- Allocation of taxable profit between head office and permanent establishment

Operational consulting

- TP risk diagnostics
- Development of TP policies and procedures
- Training of specialists on TP issues
- Regular consulting on TP matters

Defending Position and Dispute Resolution

- Development of a defense strategy and argumentation
- Support during tax audits and alignment of positions with tax authorities
- Preparation of complaints/appeals to notifications and representation of your interests before the Ministry of Finance of Kazakhstan and all judicial instances
- Assistance in concluding Advance Pricing Agreements and during mutual agreement procedures (negotiations)



Tax Technologies

Tax specialists typically spend up to 80% of their time extracting, formatting, and structuring raw data for subsequent analysis.

The standard approach, which relies on spreadsheets, is time-consuming and inefficient, as performance decreases when merging multiple files, processing large datasets, working with external links, and handling complex formulas.

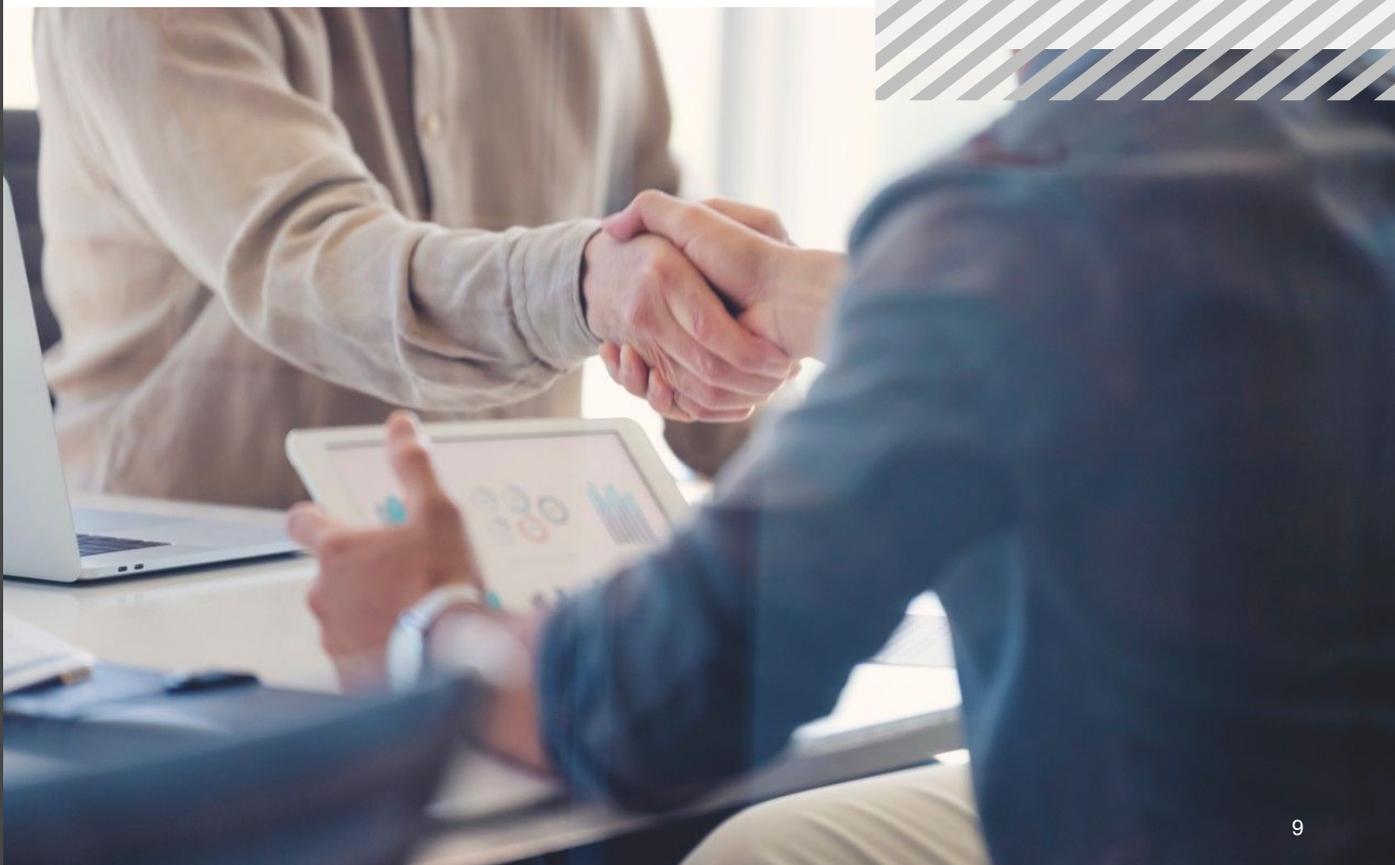
Automating routine tasks allows clients to significantly reduce the time required for report preparation, save employee resources, minimize errors, and quickly generate interim reports, among other benefits.

Our services include:



- **Sightline** is a virtual platform that allows us to efficiently interact with clients or a group of clients in managing complex projects or a group of projects, securely exchanging data, tracking the current status of work for each project or task, receiving and sending various requests regardless of the physical location of the users of such a system.
- **Alteryx** is a tool for processing and combining multiple data sources for subsequent data processing using a wide range of tools that access, prepare, analyze, and output data faster and more easily.
- **Power BI** is a suite of business analytics tools that transform various data into meaningful information through intuitive visualizations of various charts and tables.

PwC assists clients with the setup and use of various technologies for secure and convenient data exchange, automatic processing of primary data, and interactive visualization of results for automatic generation of tax reports or conducting analysis and verification of tax obligation calculations.





Inspections by State Authorities

International and Kazakhstan companies face complex taxation challenges during tax administration. The competition among states to collect tax revenues has led to an increase in the number and scope of government inspections, as well as subsequent disputes between taxpayers and tax authorities.

It is crucial for companies to stay informed about legislative changes and secure the support of professionals with extensive experience in tax and legal advisory services to minimize risks that could impact their business.

For many years, PwC specialists have:



- conducted independent tax reviews as part of preparation for inspections by state authorities;
- provided assistance during and after tax inspections;
- supported the appeal of tax inspection results in higher state authorities and courts;
- assisted in the refund of taxes and overpayments in tax accounts;
- provided support in mutual agreement procedures conducted between the competent authorities of Kazakhstan and other states.

PwC specialists hold the necessary accreditation to provide legal support in challenging tax inspection results.





Consultation on Customs issues

Companies in the mining industry often face challenges in the customs sphere and international trade, which are reflected in the import of tools and technological equipment for extracting and processing raw materials, as well as in the export of finished products. In the context of foreign trade regulation and non-tariff barriers, thorough planning at all stages of export-import operations is crucial to avoid disruptions in the supply chain.

Additionally, amid trends toward reducing benefits for industrial equipment by the state, the introduction of measures to protect the domestic market, and the permit-based import of certain types of goods, companies face a high risk of non-compliance with customs regulations, leading to significant expenses.

Our services include:



- customs review of a company's activities for compliance with customs legislation;
- support in appealing the results of customs inspections;
- classification of goods according to the EAEU Commodity Nomenclature of Foreign Economic Activity;
- practical assistance in determining customs value;
- analysis of the possibility of obtaining tariff preferences and exemptions;
- assistance in obtaining decisions on the classification of goods in unassembled condition and advance rulings, permits, and other customs documents;
- analysis of the compliance of origin documents with existing legal requirements;
- consultation in drafting foreign trade contracts;
- analysis of customs and tax risks in the context of product export and VAT refunds;
- support in concluding investment contracts.

PwC specialists hold the necessary accreditation in the field of customs affairs. Our experience and knowledge will help optimize costs during the import of goods and reduce customs risks.





Legal Support

In light of the policy aimed at reducing bureaucracy in the government apparatus, the process of obtaining (or reissuing) licenses for subsoil use has been significantly simplified, as reflected in the Subsoil Code.

At the same time, due to Kazakhstan international commitments under low-carbon development, several significant changes have been made to the country's environmental legislation in recent years. These changes establish regulatory requirements for natural resource users, including subsoil users. Non-compliance with these requirements can have negative consequences for subsoil users.

Our services include:



- Support in obtaining/re-obtaining subsoil use licenses;
- Support in amending subsoil use contracts concluded before the enactment of the Subsoil Code;
- Support in the transfer of assets related to subsoil use rights;
- Legal due diligence of assets related to subsoil use rights;
- Legal advice on subsoil use rights and environmental regulations;
- Representation of interests before state authorities.

PwC specialists possess the necessary legal qualifications to support the obtaining/re-obtaining of subsoil use licenses and provide consulting on subsoil use rights.



Our team



Timur Zhursunov

Partner, Tax, Legal and People Services

Tel: +7 (717) 255 07 09 (4015)
timur.zhursunov@pwc.com



Elena Kaeva

Partner, Tax, Legal and People Services

Tel.: +7 (727) 330 32 00 (4004)
elena.kaeva@pwc.com



Abay Munsyzbayev

Director, People and organization

Tel.: +7 (727) 330 32 00
abay.munsyzbayev@pwc.com



Alexey Zhukov

Director, Tax services, Corporate taxation

Tel :+ 7 (727) 330 32 00 (4005)
alexey.zhukov@kz.pwc.com



Aliya Ibrayeva

Director, International taxation services Tax services in ESG

Tel: +7 (701) 500 96 72
aliya.ibrayeva@pwc.com



Nursultan Nurbayev

Director, Transfer pricing, Legal support services

Tel.: +7 (727) 330 32 00 (4279)
nursultan.nurbayev@pwc.com



Yerkebulan Rakhmenov

Director, Legal services

Tel.: +7 (727) 330 32 00 (4182)
yerkebulan.rakhmenov@pwc.com



Anna Levina

Manager, Tax services

Tel.: +7 (777) 407 45 11
anna.levina@pwc.com



Vladimir Tikholaz

Senior Associate, Tax services

Tel.: +7 (701) 771 72 23
vladimir.tikholaz@pwc.com



Assiya Shagdar

Associate, Tax services

Tel.: +7 (707) 942 30 45
assiya.s.shagdar@pwc.com

<https://www.pwc.com/kz>

© 2024 PwC. All rights reserved. Not for further distribution without the permission of PwC. "PwC" refers to the network of member firms of PricewaterhouseCoopers International Limited (PwCIL), or, as the context requires, individual member firms of the PwC network. Each member firm is a separate legal entity and does not act as agent of PwCIL or any other member firm. PwCIL does not provide any services to clients. PwCIL is not responsible or liable for the acts or omissions of any of its member firms nor can it control the exercise of their professional judgment or bind them in any way. No member firm is responsible or liable for the acts or omissions of any other member firm nor can it control the exercise of another member firm's professional judgment or bind another member firm or PwCIL in any way