



Decriminalization of Tax Offences

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If you are interested in additional information, please contact us.

In brief

In Kazakhstan, the Law "On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on Strengthening the Fight against Raiding, Protecting Business Activities from Illegal Interference of State Bodies and Officials and Strengthening Measures to Prevent the Illegal Turnover of Precious Metals" (hereinafter - "LRK on Amendments") was adopted.

In detail

From September 6, 2021, amendments and additions are made to the Criminal Code of the Republic of Kazakhstan (hereinafter - the "Criminal Code"), Criminal Procedure Code of the Republic of Kazakhstan (hereinafter - "Criminal Procedure Code"), as well as to the Law of the Republic of Kazakhstan "On Prosecutor's Office" (hereinafter - "LRK on Prosecutor's Office").

These amendments affected issues of criminal liability for tax violations, criminal liability of state bodies, as well as the actions of prosecutors when receiving complaints against state bodies.

Amendments to the Criminal Code

The LRK on Amendments contains amendments to the Criminal Code in terms of bringing entrepreneurs to criminal responsibility for tax offenses.

- Thus, terms specified in Article 3 of the Criminal Code as "large damage and large scale", as well as "especially large damage and especially large scale" have been expanded.

Now, in determining the large and especially large damage resulting from tax audits, in addition to the previously stipulated thresholds of 50,000 and 75,000 MCI, the provisions of the Criminal Code also include the condition that the amount of taxes and other mandatory payments to the budget accrued based on the results of a tax audit **for one calendar year** from the audited period **shall exceed 10 percent** of the amount of all taxes and other mandatory payments to the budget calculated by the taxpayer for that calendar year.

- Also, amendments were made to Articles 249 and 365 of the Criminal Code aimed at strengthening **the control of the powers of state bodies** in relation to entrepreneurs:
 - strengthens criminal liability for raiding against entrepreneurs, using the powers of law enforcement and regulatory bodies or in court;
 - the ways of preventing the occupation of legitimate entrepreneurial activity are detailed.



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Why is this important to you?

These amendments to a certain extent reduce the risk of criminal prosecution of the management and tax specialists of medium-sized and large companies based on the results of tax audits. The amendments also contribute to an increase in the responsibility and control of state bodies in the exercise of their powers.

Amendments to the Criminal Procedure Code and the LRK on Prosecutor's Office

- Amendments have been made to Article 105 of the Criminal Procedure Code to reduce the time taken to process complaints from businesses and citizens about unauthorized inspections, searches, seizures, and temporary restriction of property **up to three days**. Earlier, these complaints were not classified as separate, and the processing time was seven days.
- The LRK on Prosecutor's office has been amended to effectively protect the rights of citizens and the legitimate interests of business from illegal decisions of officials.

Thus:

- the appointment of an **immediate** check by the prosecutor is provided in case the interests of business are affected by state bodies;
- the prohibitive and restrictive measures of the authorized bodies will be canceled by the decision of the prosecutor. It should be noted that the appeal of this decision will not suspend its execution.

Why is this important to you?

In case of rights violation by state bodies, taxpayers can appeal to the prosecutor's office, which, in turn, has more powers to protect business with the adoption of these amendments.

Are you interested in this topic?

We would be pleased to discuss with you the above-mentioned amendments to the national legislation and how they can impact your business, as well as analyze and implement possible steps to ensure compliance with the new requirements and to **provide other legal support**.