

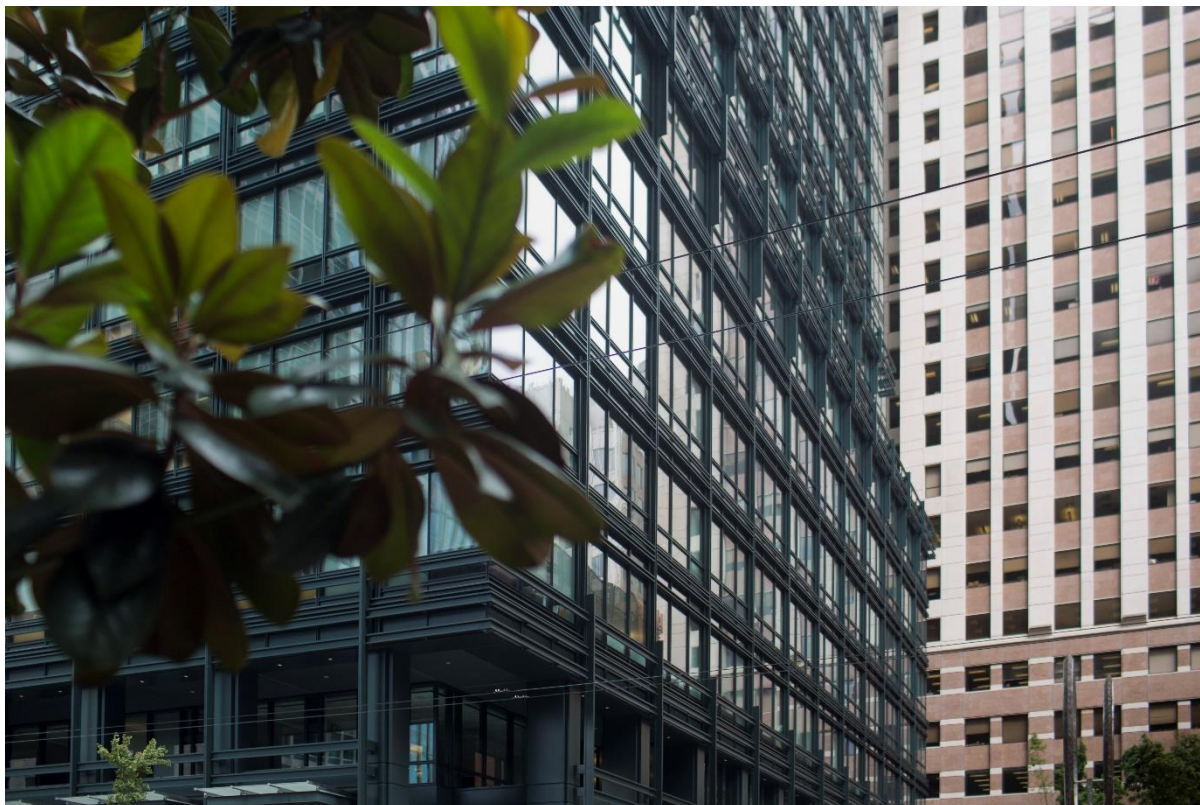
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## ***Tax Alert / Issue No. 2 / 18 January 2018***

Changes to Property Tax base / Unification of certain taxes / Deductibility of expenses / Export of goods below the cost / Tax Monitoring / Headcount Monitoring / Large Taxpayers / Tax Holidays

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### ***Recent changes in legislation***



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***In this issue, we have summarised notable recent amendments in the Uzbek legislation***

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A number of legislative changes were introduced by virtue of the Laws of the Republic of Uzbekistan No.3PY-454 of 29 December 2017, No.3PY-455 of 30 December 2017, No.3PY-456 of 3 January 2018 and No.3PY-459 of 9 January 2018. Below, we have summarised the most notable ones.

#### ***Amendments to the Tax Code***

Due to unification of corporate income tax (CIT) and Infrastructure development tax (IDT), as well as unification of mandatory contributions to the designated funds (previously, separate contributions to Pension Fund, Road Fund and Educational/Medical Institutions Fund), Tax Code was amended to exclude references to IDT and specific funds.

## *Property and Land Tax*

Article 266 defining taxable object for Property Tax was amended to replace 'fixed assets' with 'immovable property'. Hence, fixed assets, except for immovable property, are excluded from the taxable base for Property Tax.

Similarly, in accordance with the amended Article 265, legal entities – non-residents of Uzbekistan, are viewed as payers of Property Tax only if they own immovable property in the Republic of Uzbekistan.

Furthermore, non-resident legal entities are now not required to file information (report) on taxable property to tax authorities, while tax authorities shall calculate Property Tax based on information received from a body carrying out registration of immovable property.

Taxable base for Property Tax paid by individuals is amended from inventory value to cadastral value, which should be closer to the market value.

As of 1 April 2018, the rates of Property Tax and Land Tax are tripled in relation to overdue construction-in-progress and land plots allocated for construction. Increased rate of Property Tax shall also apply in respect of entities failing to initiate production of goods and provision of services within 12 month after completion of construction. Obligation to pay Property tax and Land tax in cases listed above shall also be applicable to taxpayers paying taxes under the simplified tax regime.

## *Deductibility of expenses*

Article 145 providing the list of other deductible for CIT purposes is amended to include certain expenses, previously treated as non-deductible, including, without limitation:

- expenses related to healthcare and measures and organisation of recreational activities;
- contributions to non-state pension funds;
- levy for fully depreciated equipment in use.

Moreover, definitions of certain deductible expenses have been broadened. For instance, all expenses for conducting audit of a taxpayer may now be deducted (previously, expenses for audit performed more than once in a reporting period were treated as non-deductible).

Article 146 regulating expenses deductible in future periods now provides an option to deduct the following expenses in the current reporting period.

- expenses related to implementation of new production, workshops, aggregates as well as production of new types of serial/mass products and technological processes;
- complex idle testing of all types of equipment and technical installations aimed at checking quality of the installation;
- expenses related to recruitment of workforce and training of personnel at newly established enterprise.

In accordance with the amended Article 154 the minimum taxable base for calculating CIT of foreign legal entities carrying out activities in Uzbekistan through permanent establishment (PE) was reduced from 10% of total expenses to 7%.

Furthermore, net profits of PE are no longer subject to additional tax (previously 10%), while CIT is now payable at 14% (previously 7.5%).

## *Taxation of dividends and grants*

In accordance with the amended Article 156, effective 1 April 2018, dividends reinvested are now subject to taxation (previously, exempt).

Based on the amended Article 179, only grants received by individuals directly from international and foreign organisations are exempt from personal income tax (previously,

the exemption also included grants received indirectly through legal entities). This amendment will also be effective as of 1 April 2018.

### *Value Added Tax*

Article 208 regulating turnover exempt from Value Added Tax (VAT) was amended to exclude certain works/services from the list of exempt items, e.g. hydro-meteorological and aerologic works; geological and topography works; products and services provided by National Television and Radio Company; services on environmental expertise. This amendment will be effective as of 1 April 2018.

Article 228 was supplemented by option allowing taxpayers to apply for a VAT refund online via personal cabinet of a taxpayer.

### *Reporting and payment deadlines*

Effective 1 January 2018, the deadline for filing Land Tax report is established as 10 January of current reporting period while payments are made monthly (previously, reported by 15 February and paid quarterly).

Deadlines for reporting and payment of fixed tax by legal entities and individual entrepreneurs for carrying out certain types of activities was amended from 15 January to 10 January of the reporting year, and from 25th day to 10th day of each month respectively.

Articles 57 and 58 were amended to reduce the period for refund of overpaid taxes and obligatory payments by tax authorities from 30 days to 15 days.

Similarly, the period for refund of income tax withheld from non-resident legal entities at the source of payment was reduced from 30 days to 15 days.

### *Export of goods below cost*

Article 130 was supplemented by a new provision regulating CIT implications of exports below cost. Thus, the taxable income in such cases shall be determined based on the actual export price upon the approval by a special authorised body.

Similar provisions were introduced to Article 204 and Article 355 in relation to taxable base for VAT and UTP.

### *Other changes*

Article 348 regulating the simplified tax regime was amended to include a provision whereby legal entities – owners of construction-in-progress and unused production facilities may be forced to switch to the standard tax regime based on the resolution of the authorised body monitoring implementation of investment projects.

Tax authorities may temporarily (up to 5 days) freeze bank accounts of entities that sell goods (works, services) without registration of receipts.

Article 84 regulating bodies and organisations providing information to tax authorities was supplemented to include the authority defining the domain names of the national segment of Internet, which shall provide information to the tax authorities on domain name administrators.

In addition to the above amendments to the Tax Code, few new concepts have been introduced as outlined below.

### *Tax Monitoring*

New form of tax control ‘Tax Monitoring’ was introduced in the Tax Code. Tax Monitoring envisages enhanced exchange of information between bona fide taxpayers and tax authorities.

Only taxpayer with annual sales turnover exceeding 70,000 MMW (currently, around UZS 12.57 billion) may participate in Tax Monitoring.

During Tax Monitoring tax authorities have a right to request documents, information and explanations related to accuracy of calculation, reporting and payment of taxes and other obligatory payments.

If tax authorities believe that taxpayer participating in Tax Monitoring program breaches tax legislation, it can issue substantiated opinion. At the same time, taxpayers being monitored, may also apply to tax authorities for substantiated opinion on unclear tax matters.

As for advantages of Tax Monitoring program, the periods covered by monitoring are not subject to cameral control (desk audit) and scheduled tax audits.

Tax Monitoring may be suspended for the number of reasons, including without limitations:

- non-compliance of taxpayer with the requirements of information exchange;
- breaching deadlines for filing tax and financial reports during Tax monitoring period;
- delayed or incomplete payments of taxes and other obligatory payments during Tax monitoring period;
- filing amended tax reports, envisaging decrease of taxes or increase of losses for the period of Tax monitoring;
- provision of inaccurate information during Tax monitoring period.

### *Monitoring of Headcount*

Another new form of tax control introduced into the Tax Code is monitoring of conformity between reported and actual headcount of legal entities.

Monitoring of Headcount is performed by tax authorities via visits to objects and territories used by taxpayer and physical counting of employees. The following may serve as basis for carrying out monitoring of headcount:

- discrepancies and inconsistencies in tax reporting based on the results of desk audit carried out by tax authorities, suggesting that employment income or number of employees were understated;
- complaints from individuals or legal entities;
- deviation between number of employees indicated in the information of ministries/authorities and reports submitted to state tax authorities.

Regulation on the procedure for Monitoring of Headcount is yet to be developed by the Cabinet of Ministers.

### *Large Taxpayers*

New category of taxpayers - legal entities, i.e. 'Large taxpayer' is introduced. Criteria to qualify as a Large Taxpayer shall be defined by State Tax Committee (currently, not available in public sources).

In accordance with the amended Article 45, Large Taxpayers shall submit tax reports to the regional state tax departments, which is a higher instance than tax inspectorates used previously.

Large Taxpayers may not opt out from this category and applicable tax administration. Tax authorities shall inform a taxpayer in writing (including through personal cabinet of taxpayer) within 5 days from the decision to include the company in Large Taxpayer group.



## *Tax Holidays*

The Tax Code was supplemented by a concept of 'Tax Holidays'. Tax Holidays are provided by changing deadlines for settlement of tax liabilities, allowing to defer tax payments. Tax Holidays are provided to:

- for up to 24 months to bona fide taxpayers experiencing temporary financial difficulties. Bona fide taxpayers are defined as taxpayers that fully and timely fulfilled their tax liabilities for the last two years;
- up to one year from state registration for newly established entities, payers of Unified tax payment (UTP), except for trading, catering entities as well as entities organising lotteries.

## *Let's talk*

For a deeper discussion of how this issue might affect your business, please contact:

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